

1717 CHANNEL ROAD
AUSTIN, TX 78746

Case # 2021-000072 BA

VARIANCE REQUEST

Seeking BOA Variance to reduce shoreline setback:

Section 25-2-551(B)(1)(a) to reduce shoreline setback from 75' to 25' along a man-made slough that abuts the property via cut in boat slip.

The Austin shoreline setback is 75' per staff's current interpretation of where a shoreline setback is measured from as it relates to man made sloughs or inlets.

The client is seeking a 25' Lake Austin shoreline setback from the slough.

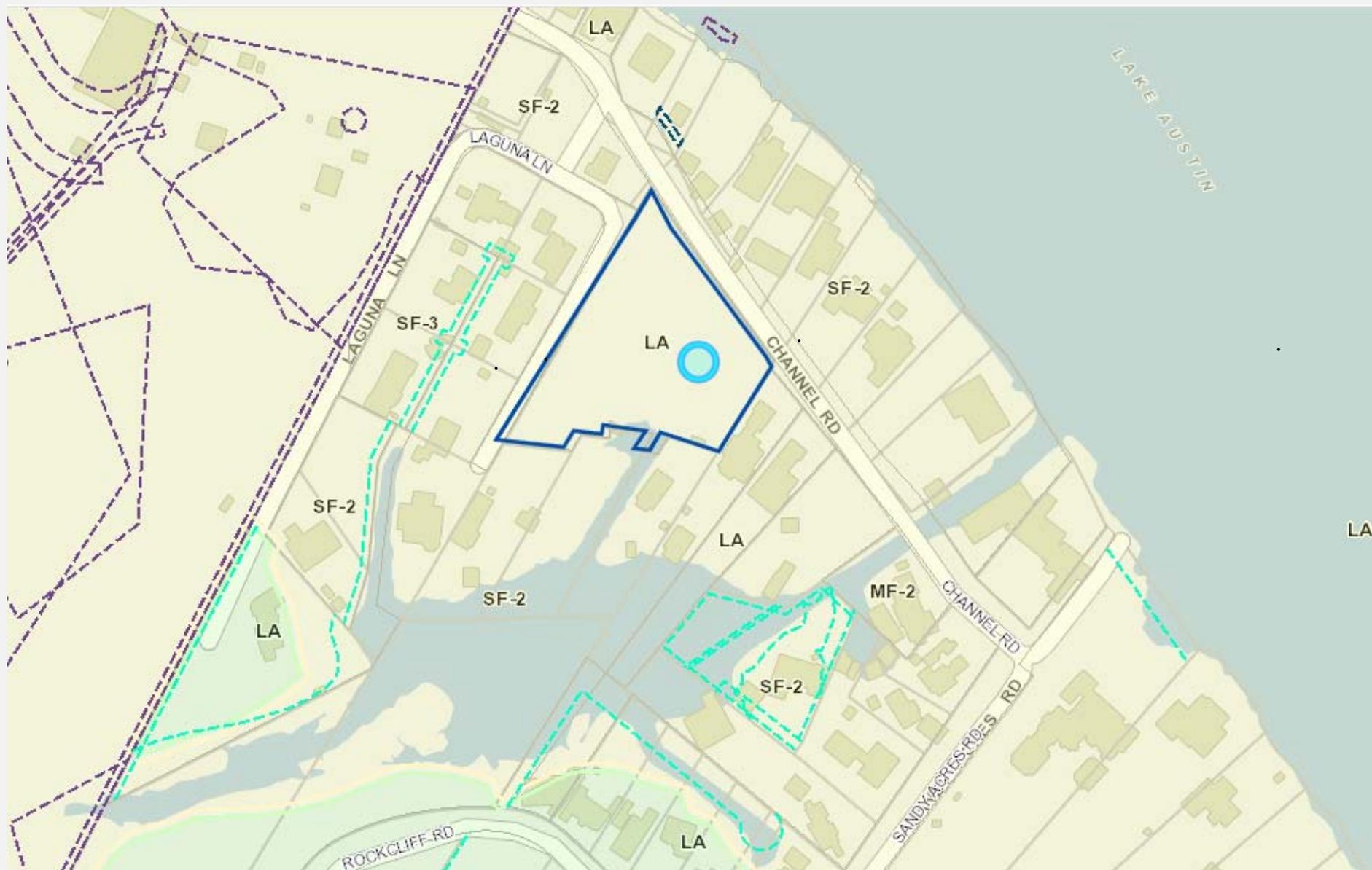
The man-made slough has a cut-in slip created sometime between 1955 and 1968 per City of Austin zoning profile aerials.

There does not appear to be any natural causation of the inlet. It appears wholly man made based on various historical aerials and physical inspections.

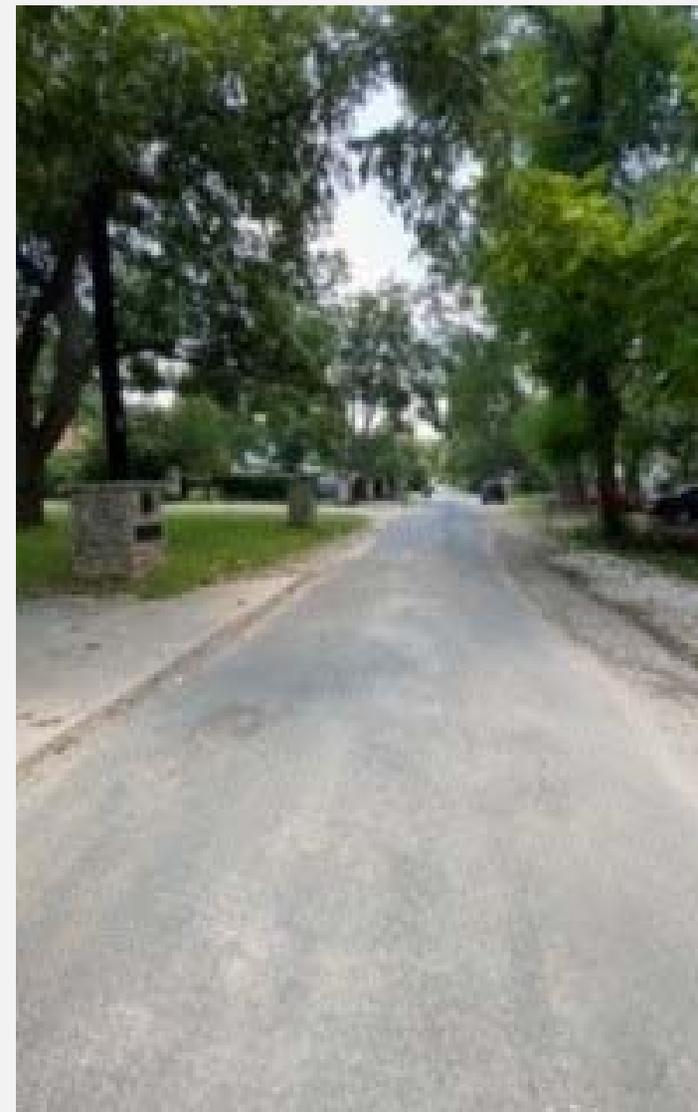
AERIAL



MAP AERIAL



CHANNEL RD + ENTRANCE TO SITE



VARIOUS INLET ANGLES



VARIOUS INLET AND CHANNEL ANGLES



VARIOUS PROPERTY ANGLES FROM INLET



VARIOUS PROPERTY ANGLES AROUND INLET



EASEMENT THAT SPLITS PROPERTY



CHANNEL TO / FROM LAGOON – LAKE AUSTIN



REASONABLE USE

zoning regulations applicable to the property do not allow reasonable use because:

zoning regulations combined with unique hardships prevent a reasonable use of the property as prescribed by the applicable zoning district.

The existing 1.72-acre tract is vacant and zoned Lake Austin, LA, as part of the City of Austin's attempt to apply LA zoning to lake properties in 1984. The site was annexed June 15, 1968 and "A" zoning which is the equivalent of today's SF-2 zoning. The site does not front on a body of Lake Austin. It is only accessible to the water via a small inlet that connects to a lagoon. From that lagoon a straight line was dredged to the site. On the other side of the lagoon, it connects to the main body of Lake Austin via separate canal (from the lagoon the canal travels under a bridge (Channel Road), then it connects to the main body. See aerial maps for quick reference). We believe the cut-in slip was created during the 1955-1968 period as the actual inlet because the 1955 – 1968 aerials reflect the inlet being dredged into the lagoon during this time and not in any aerials before 1955. It shows the inlet at the location between 1955 - present. Currently there is no boat dock structure and concrete retaining walls exist in the cut-in area.

REASONABLE USE (CONT'D)

The applicant is requesting a reduced shoreline setback from the water in order to accommodate development of a single-family project and associated necessary structures. The variance request is more about the flexibility to locate improvements in appropriate locations rather than getting close to the water property line. The tract has several hardships prohibiting a reasonable development of such a large tract, namely the interpretation that a 75' shoreline setback applies to sites such as this, which have no main body frontage. The shoreline setback provision of the LA code was never intended to apply to this type of site. The Board has acknowledged this on at least three (3) LA sites that I am personally aware of, although there may be more cases which I cannot account for. Each site had equal main body frontage as well as man made sloughs entering each of those properties. They are addressed to Westlake Dr. all of their inlets had shoreline setback reductions approved ranging between 5' and 25'. Another site in Beech Creek was recently approved for shoreline setback reduction from 75' to 25' for part of the shoreline, too. All of these cases were approved 2018-2021.

REASONABLE USE (CONT'D)

The proposed house and related accessory structures are attempting to fit between multiple on-site obstacles. This is more specifically noted in the hardship section of this application. The attached exhibits will facilitate the board's understanding of the site as well as the layout of the surrounding area which is highly unusual in terms of its access to and from the main body, a shallow lagoon which exists nowhere else in the lake area, a highly unusual easement access cutting through the middle of the lot – essentially bifurcating the lot into almost two separate build areas, and the irregular shape of this site along other hardships.

We believe this is a fair and reasonable use in the Lake Austin zoning category that category specifically prescribes development of a residential nature. However, a literal application of the LA zoning performance standards inhibits reasonable use of this site. For example, factors specific to this lot to include existing setbacks, access easements, lot shape, protected trees, the cut in slip and man made slough, septic field location due to proximity to water, and reduced net site building area. All of which contribute to an unreasonable

HARDSHIP

**Hardship is not general to the area in which the property is located
Cause:**

The site has several hardships which limit the reasonable placement of infrastructure and vertical improvements. Most notably, the application of the 75' shoreline setback reduces the buildable area by over 20,000 square feet. The regular front, side and rear setbacks remove an additional 21,892 square feet from the buildable area. There's a noticeable access easement which bifurcates the lot and removes another 2,600 square feet. In total, almost 45,000 square feet of a 75,000 square foot lot is 100% unbuildable – which is land that is taxed by Travis County. Further, a mixture of protected and heritage trees are found throughout the front, side and rear of the property restricting construction locations even more so. The site also loses almost 2,000 square feet to inundation from the man made cut-in slip. In sum, that nears 50,000 square foot of land which is unbuildable due to various, overlapping regulations.

HARDSHIP (CONT'D)

Under current conditions the site bears about 18,000 square feet of allowable impervious coverage. That equates to about 25% IC. Since the lot is 100% flat it is allowed 35% IC. However, this case is about the location of the IC, not the amount itself. The project will be compliant with IC and all other requirements. The combined hardships can be overcome despite their cumulative effect, but even a standalone analysis of a singular hardship such as the access easement presents a substantive hardship to the development of this site - the access easement serves to separate properties located behind this site and is essentially irrevocable. None of the parties with legal standing to the easement will agree to relocate the easement at this time.

Add the protected trees and 3,400 square foot septic field and it gets more restrictive. And again, the shoreline setback was never intended to apply to man made canals, sloughs, cut ins and such. At some point in the late 1990's or early 2000's the state started making the determination that they do apply. This current determination is what brings the case to you today.

HARDSHIP (CONT'D)

A 25' shoreline setback would certainly increase the allowable impervious coverage, but this case is not about impervious coverage – it's about the flexibility to site the single-family improvements in a reasonable manner. A shoreline reduction from 75' to 25' will do just that. We estimate a 25' setback would allow about 24,000 square feet, or roughly 32% IC. My client is open to an IC cap if the Board favors that as a condition of approval.

Suffice to say, the site has several encumbrances that affect the ability to site the proposed improvements to the property by way of the hardships. This combination of hardships is not known on any surrounding properties that take access from the already unusual lagoon much less the larger surrounding area containing homes along the main body of Lake Austin.

NOT GENERAL TO THE AREA

Man made sloughs, inlets and cut-ins are fairly rare along Lake Austin. They do exist; and when they do, they create significant development constraints because the literal application of the 75' shoreline setback stretches into viable build sites within the lot nearly 100% of the time. The Board has recognized this on similar properties. This condition is not general to the area, but rather the exception.

AREA CHARACTER

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 or intent of the zoning district in which the property is located because:

Any new construction will be in keeping with the varied construction styles found along Lake Austin. There will be no adverse impact to adjacent properties. All development will comply with all other applicable codes. Active measures will be taken to ensure the protection of Lake Austin via best management practices.

In summary, a proposed 25' setback measured from the 492.8' contour shoreline will allow a reasonable use of the property, would not be dissimilar to other shoreline setbacks. The Board has approved for sites with man made inlets, and will have no adverse impact on adjacent properties. Best management practices would be employed as part of the project to ensure protection of on-site environmental features where applicable, Lake Austin itself, and neighboring properties.

THANK YOU