

From: Lorraine Atherton
To: [Ramirez, Diana](#); [Ramirez, Elaine](#)
Cc: [REDACTED]
Subject: Agenda item D-1, 1003 Kinney variance, case C15-2021-0100
Date: Monday, November 08, 2021 10:59:05 AM

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Hello, Ms. Ramirez.

Please include these comments in the backup and case file for tonight's Board of Adjustment hearing on Agenda item D-1, 1003 Kinney variance, case C15-2021-0100.

Thank you for your help.

Lorraine Atherton

2009 Arpdale, Austin, TX 78704

For the Zoning Committee of the Zilker Neighborhood Association

To the City of Austin Board of Adjustment

The Zoning Committee of the Zilker Neighborhood Association is opposed to the requested lot size variance for 1003 Kinney because the applicant has not presented a qualifying hardship and because the granting of the variance amounts to a privilege that has been denied to other properties in similar circumstances. We offer these alternatives:

1. Encourage the owner to purchase or otherwise persuade the City to vacate a portion of the alley.
2. Limit the new construction to the dimensions of the demolished house.

The request lacks a hardship:

Demolition application forms note that the applicant is responsible for checking on whether new construction will be allowed on the lot, before the application is submitted. The applicant must also take responsibility for submitting the correct lot dimensions. The hardship question in this case boils down to whether the applicant checked the box in error, or the City staff approved the demolition in error.

Unless the owner at 1003 Kinney can show that staff approved the demolition in error, there is no hardship. If staff approved it in error, then the best the owner can expect is permission to rebuild the house to its previous dimensions.

The situation is not unique in this neighborhood:

The applicant cites **904 Ethel** as a comparable case, but the 904 Ethel variance was sought BEFORE demolition, not after. The BoA decision in the Ethel case on Nov. 14, 2016, was to limit the construction to 1,600 sf.

More relevant cases are:

1516 Kinney, where the house was demolished prematurely. That variance was denied early in 2016. The owner eventually bought more land to restore the minimum lot size. The ZNA position in that case was that we would have been happy to discuss a variance to preserve the existing house, but when the owner went ahead and demolished the house, he removed any justification for a

hardship.

1107 Kinney, where parts of a larger property had been sold to adjacent projects, leaving a very small parcel. The owner applied for a small lot variance Sept. 6, 2009, with no hardship, and withdrew the request after discussing it with ZNA. The Board of Adjustment denied a second application June 13, 2011.

1210 Juliet is typical of many lots in this part of the neighborhood that qualify as “substandard” under 25-2-943 and do not require variances.

2003 Arpdale is our most recent small-lot case, in May 2021. The house was NOT demolished, and no new construction was proposed. We supported that request strictly to bring the existing house up to code. The BoA decision limited the impervious cover and prohibited new construction.

The ZNA Zoning Committee requests that the Board deny the variance as requested at 1003 Kinney Avenue and support the preferred remedy in this case, which is that the applicant purchase or otherwise persuade the City to vacate a portion of the alley.

Thank you for your consideration of our comments and your commitment to preserving the integrity of the City Code.

Lorraine Atherton

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For the Zoning Committee of the Zilker Neighborhood Association

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