



Board of Adjustment General/Parking Variance Application

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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 # _____
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Section 1: Applicant Statement

Street Address: 2406 Sweetbrush Dr, Austin, Texas 78703

Subdivision Legal Description:

Tract I: Lot 13, Sweetbrush Section Two, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 38, Page 30 of the Plat Records of Travis County, Texas. Tract II: Being all of that certain tract or parcel of land containing 0.44 acres, more or less, situated in the Daniel J. Gilbert Survey No. 8, Travis County, Texas.

Lot(s): 13 Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-3-NP

I/We Brian Wills, Project Manager for Cuppett Kilpatrick Architects on behalf of myself/ourselves as authorized agent for Justin Hirsch and Joy Kerveillant-Hirsch affirm that on Month October, Day 6, Year 2022, 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: Garage/Guest House

Portion of the City of Austin Land Development Code applicant is seeking a variance from:
City of Austin, Land Development Code, Section 25-2-515 (Rear Yard of Through Lot) to decrease the rear yard setback (along Matthews Dr) from 25 feet to 10 feet.

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:

Property was planned with restrictive covenant in 1955 that requires residence to front Sweetbrush Dr and specifically calls out a 25ft front building line setback (on Sweetbrush Dr) and a 10ft rear building setback (on Matthews Dr); Matthews Drive ROW was decreases and acts more like an alley; the lot contains steep topography, several protected trees, and existing residence all of which constrain the placement of a garage to a limited area that would encroach on the City interpreted 25ft rear setback. See also Section 6.

Hardship

- a) The hardship for which the variance is requested is unique to the property in that:
The lot is irregularly shaped and contains several large heritage & protected trees, an existing home and driveway, as well as steep topography which constrains the placement of a garage/guest house to a very limited area. The subdivision was planned with restrictions requiring residences to front on Sweetbrush Dr and specifically calling out a 10 foot rear setback from Matthews Dr. Matthews Dr is a "substandard roadway" that does not meet the City's design criteria for a local access street. Applying LDC Section 25-2-515 (Rear Yard of Through Lot) would constrain a garage/guest house to a design that is not harmonious with the character of the surrounding neighborhood.
- b) The hardship is not general to the area in which the property is located because:
Lot 13 is the only lot between Sweetbrush Dr and Matthews Dr with an existing residence located greater than 35 feet from the front property boundary (subject property is set back 72 feet), with existing driveway access from Sweetbrush Dr, and with steep topography (greater than 12 feet of elevation change) along Matthews Dr. However, Lot 13 is the only lot between Sweetbrush Dr and Matthews Dr without an allowable 10 foot setback from Matthews Dr. No other lots in this subdivision are shaped like Lot 13 nor do other lots contain the same combination of existing improvements, heritage or protected trees, and topography. Applying LDC Section 25-2-515 (Rear Yard of Through Lot) denies this property the 10 foot setback enjoyed by similar properties in the same zoning district.

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:

Multiple surrounding properties contain structures nearer than 25 feet to Matthews Dr. The requested variance is consistent with existing established residences in the area that were constructed close to the "substandard" Matthews Dr (which does not meet City standards for a local access street and is perceived as an alley). The subdivision was originally planned with a 10 foot setback from Matthews Dr because residences are required to front on Sweetbrush Dr. The area is known for mature shade trees and tree preservation is a key objective of the Combined West Austin Neighborhood Plan. The City's interpretation of this property being a through lot (having a 25 foot rear setback) would constrain a garage/guest house, which is legally allowed to be constructed on this lot, to a design which is not harmonious with the neighborhood. (Continued in Section 6)

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

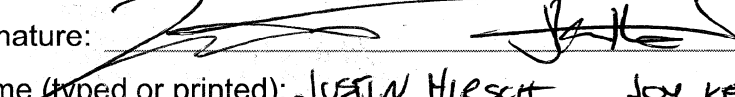
Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: Brian Wills Date: 10/6/2022
Applicant Name (typed or printed): Brian Wills, Project Manager for Cuppett Kilpatrick Architects
Applicant Mailing Address: 3904 Medical Pkwy, Suite C
City: Austin State: Texas Zip: 78756
Phone (will be public information): 512-450-0820
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: 10/5/22
Owner Name (typed or printed): JUSTIN HIRSCH JOY KERVELLANT-HIRSCH
Owner Mailing Address: 2406 Sweetbrush Dr
City: Austin State: Texas Zip: 78703
Phone (will be public information): _____
Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Timothy D. Cuppett
Agent Mailing Address: 3904 Medical Pkwy, Suite C
City: Austin State: Texas Zip: 78756
Phone (will be public information): 512-450-0820
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).

(See next page)

Additional Space (continued)

Reasonable Use (continued):

Lot 13 is an irregularly shaped lot platted in 1968 with restrictions that require residences to front Sweetbrush Dr. and establishes a 10 foot rear setback from Matthews Dr. The Subdivision and Restrictions were recorded in 1955 after the City formally vacated a 25 foot wide portion of ROW from Matthews Dr by City Council Ordinance #19510927-A in 1951. During subdivision review, the City took measures to ensure that Matthews Dr would not become the "front" street for lots abutting Sweetbrush Dr, Matthews Dr, and Scenic Dr per April 1955 Subdivision Committee minutes.

The property contains several mature, heritage and protected trees and steep topography. The property features an existing residence (ca.1969) set back deep into the lot (72 feet) that faces Sweetbrush Dr with existing driveway access from Sweetbrush Dr. The existing residence and driveway are situated in such a way that constrains placement of a garage/guest house to a very limited area that is further constrained by the Critical Root Zones for several protected trees. Additionally, garage placement rules (LDC 25-2-1604) apply restrictions to an additional $\pm 24\%$ of the site area due to the unique placement and orientation of the existing residence and the irregular shape of the lot.

Zoning code allows for a garage/guest house to be constructed on this property. The City's interpretation of a 25 foot rear setback, rather than a typical 10 foot rear yard setback, prevents constructing a garage/guest house that would otherwise be allowed on this property and would deprive the property owner of benefits enjoyed by other similar properties within the same zoning district.

Multiple properties along this stretch of Matthews Dr contain structures closer than 25 feet to Matthews Dr. The City has previously approved building plot plans reflecting fifteen (15) foot building line from Matthews Dr, and has previously approved multiple building permits for similar properties abutting this section of Matthews Dr with a 10 foot setback. Matthews Dr is a "substandard roadway" and the residence cannot legally front on Matthews Dr as well as being originally planned with a 10 foot rear setback.

The City's interpretation of this lot being a through lot with a 25 foot rear setback would constrain the garage/guest house to a design that is not harmonious with surrounding properties.

Area Character (continued):

The neighborhood group has expressed support for establishing a common front & rear street for lots considered through-lots in order to achieve consistent residence & garage placement and to avoid having residences on the same side of the block fronting on different streets. A variance allowing a 10 foot rear setback at the adjacent Lot 2A (2404 Sweetbrush Dr) was approved in 2019. A 10 foot setback from Matthews Dr at Lot 13 would match the approved 10 foot setback at 2404 Sweetbrush Dr as well as being compatible with other properties containint structures nearer than 15 feet to Matthews Dr. No other properties in this subdivision contain a garage / guest house in the front yard.
