

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**Item 8**

**DATE: Monday November 14, 2022**

**CASE NUMBER: C15-2022-0071**

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

**APPLICANT: Micah King**

**OWNER: Daniel Mitchell**

**ADDRESS: 2311 LAFAYETTE AVE**

**VARIANCE REQUESTED:** The applicant is requesting variance(s) from the Land Development Code, Section 25-2-774 (*Two-Family Residential Use*) for a Two-Family Residential

- a) (C) (5) (a) to increase the total square footage of a Secondary Dwelling unit from the lesser of 1,100 square feet or 0.15 FAR (maximum allowed) to 1,452 square feet; and
- b) (C) (5) (b) to increase the second floor square footage of 550 square feet (maximum allowed) to 756 square feet (requested) in order to erect a Secondary Dwelling Unit in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (Upper Boggy Creek Neighborhood Plan)

**Note:** *Per LDC 25-2-774 - TWO-FAMILY RESIDENTIAL USE.*

*(A) For a two-family residential use, the base zoning district regulations are superseded by the requirements of this section.*

*(B) For a two-family residential use the minimum lot area is equivalent to a standard lot.*

*(C) The second dwelling unit:*

*(1) must be contained in a structure other than the principal structure;*

*(2) must be located:*

*(a) at least 10 feet to the rear or side of the principal structure; or*

- (b) above a detached garage;*
- (3) may be connected to the principal structure by a covered walkway;*
- (4) may not exceed a height of 30 feet, and is limited to two stories;*
- (5) may not exceed:*
  - (a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller; and*
  - (b) 550 square feet on the second story, if any; and*
- (6) may not be used as a short term rental for more than 30 days in a calendar year if the second dwelling unit was constructed after October 1, 2015.*

**BOARD’S DECISION: The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postpone to November 14, 2022; Board member Melissa Hawthorne second on 9-0 vote; POSTPONED TO NOVEMBER 14, 2022.**

### **VARIANCE REQUESTED-RENOTICE**

The applicant is requesting variance(s) from the Land Development Code, Section 25-2-774 (*Two-Family Residential Use*)

- a) (C) (2) (a) for a Two-Family Residential use location at least 10 feet to the rear or side of the principal structure (required) to a Two-Family use location to the front of the principal structure (requested);
- and
- b) (C) (5) (a) to increase the total square footage of a Secondary Dwelling unit from the lesser of 1,100 square feet or 0.15 FAR (maximum allowed), 901.5 square feet to 948 square feet (requested) in order to erect a principal Single-Family residence in rear and change use of existing principal structure to a Two-Family Residential use in front in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (Upper Boggy Creek Neighborhood Plan)

***Note: Per LDC 25-2-774 - TWO-FAMILY RESIDENTIAL USE.***

- (A) For a two-family residential use, the base zoning district regulations are superseded by the requirements of this section.*
- (B) For a two-family residential use the minimum lot area is equivalent to a standard lot.*
- (C) The second dwelling unit:*
  - (1) must be contained in a structure other than the principal structure;*
  - (2) must be located:*
    - (a) at least 10 feet to the rear or side of the principal structure; or*
    - (b) above a detached garage;*
    - (3) may be connected to the principal structure by a covered walkway;*
    - (4) may not exceed a height of 30 feet, and is limited to two stories;*
    - (5) may not exceed:*
      - (a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller; and*
      - (b) 550 square feet on the second story, if any; and*
    - (6) may not be used as a short term rental for more than 30 days in a calendar year if the second dwelling unit was constructed after October 1, 2015.*

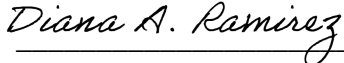
**BOARD’S DECISION: The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to Approve with friendly amendments to limit to 0.4 FAR and no STR (Short-Term rental) on either building; Board member Brooke**

**Bailey second on 10-0 vote; GRANTED WITH FRIENDLY AMENDMENTS TO LIMIT TO 0.4 FAR AND NO STR (SHORT-TERM RENTAL) ON EITHER BUILDING.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the regulations unreasonably constrain the ability of the owner to have adequate, safe housing to meet their needs without demolishing and replacing the existing front house, which was constructed in 1948.
  
2. (a) The hardship for which the variance is requested is unique to the property in that: it had two very old structures that are both legally noncomplying, a 3 story multifamily building is immediately to the rear of the property, and options for where to provide safe, adequate, new housing that will help the owner remain in place are constrained by the narrow width of the lot combined with the locations of the houses.  
  
(b) The hardship is not general to the area in which the property is located because: many nearby front houses have expanded in size or have room to expand without the buildable space being squeezed between a 25' front setback and a 24" heritage tree.
  
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: this variance will not alter the area character and will keep the area of character with compliance and by allowing 1948 building to exist in front, also to be in compliance.

  
Elaine Ramirez  
Executive Liaison

  
Jessica Cohen  
Madam Chair