

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**ITEM07**

**DATE: Monday June 12, 2023**

**CASE NUMBER: C15-2023-0024**

Y  Thomas Ates  
 Y  Jessica Cohen  
 -  Melissa Hawthorne OUT  
 Y  Brian Poteet  
 -  Agustina Rodriguez OUT  
 Y  Margaret Shahrestani  
 Y  Richard Smith  
 Y  Janel Venzant  
 Y  Michael Von Ohlen  
 -  Nicholl Wade NO SHOW  
 N  Kelly Blume (Alternate)  
 -  Carrie Waller (Alternate)  
 Y  Marcel Gutierrez-Garza (Alternate)

**APPLICANT: Micah King**

**OWNER: Thomas Neal Hull**

**ADDRESS: 1502 HILLMONT ST**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the Land Development Code, Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards:

a) Section 2.2 (*Building Height*) (A) to increase the height from 32 feet (maximum allowed) to 37 feet (requested)

**and**

b) Section 2.6 (*Setback Planes*) (B. *Rear Setback Plane*) to extend outside the inwardly sloping 45-degree angle (required) by an additional 3 feet 10 inches (requested) in order to erect a Single-Family residence in an “SF-3”, Single-Family zoning district

**Note: 25-2 Subchapter F RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS, Article 2 Development Standards,**

**Section 2.2. – Building Height.**

*Except where these regulations superseded, the maximum building height for development subject to this Subchapter is:*

(A) 32 feet for development located outside the 100-year floodplain; and

(B) 35 feet for development located in the 100-year floodplain.

**Section 2.6. – Setback Planes.**

*This subsection prescribes side and rear setback planes in order to minimize the impact of a new development and rear development on adjacent properties. A structure may not extend beyond a setback plane except as authorized by subsection D. below. The height of a setback plane shall be measured under the requirements defined in [Section 3.4](#).*

**B. Rear Setback Plane.** *Except as provided in subsection D, an inwardly sloping 45-degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in paragraph A.3.*

**BOARD'S DECISION: May 8, 2023 The public hearing was closed by Madam Chair Jessica Cohen, Board member Melissa Hawthorne motions to postpone to June 12, 2023; Madam Chair Jessica Cohen seconds on 10-0 votes; POSTPONED TO JUNE 12, 2023; June 12, 2023 The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve the original variance request; Margaret Shahrestani seconds on -8-1 votes (Board member Kelly Blume nay); GRANTED.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the zoning regulations do not allow for a reasonable use because the existing home is in a declining state and the replacement homestead residence would be boxed in and have very limited light and views due to the surrounding protected and heritage trees and large canopies relatively limited buildable area
2. (a) The hardship for which the variance is requested is unique to the property in that: most other properties do not have the same combination of a lot with a limited buildable area surrounded by so many protected and heritage trees as well as topography  
  
(b) The hardship is not general to the area in which the property is located because: most other properties do not have the same combination of a lot with a relatively small buildable area that is entirely surrounded by protected and heritage trees
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 height increase would only be for the rear part of the structure and the front of the house will be stepped back from the front by using a tiered layer design, the scale and massing will be swapped from the front of the property to its upper rear, the small portion of the top floor that would go beyond the rear setback plane backs up to the paved part of a large condominium property that serves as the fire lane and parking area and so would not impose upon any neighbors.

*Elaine Ramirez*  
Elaine Ramirez  
Executive Liaison

*Diana A. Ramirez*  
Jessica Cohen  
Madam Chair