



**BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
MONDAY, September 9, 2024**

The **BOARD OF ADJUSTMENT** convened in a Regular meeting on Monday, September 9, 2024, at 301 West 2nd Street in Austin, Texas.

Chair Jessica Cohen called the Board of Adjustment Meeting to order at 5:45 PM.

Board Members/Commissioners in Attendance in-Person:

Jessica Cohen-Chair, Melissa Hawthorne-Vice Chair, Janel Venzant, Michael Von Ohlen, Suzanne Valentine (Alternate)

Board Members/Commissioners in Attendance Remotely:

Thomas Ates, Yung-ju Kim, Brian Poteet, Maggie Shahrestani

Board Member/Commissioners absent:

Jeffery Bowen, Bianca A. Medina-Leal, Marcel Gutierrez-Garza (resigned)

PUBLIC COMMUNICATION: GENERAL

The first (4) four speakers signed up/register prior **(no later than noon the day before the meeting)** to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

None

APPROVAL OF MINUTES

1. Approve the minutes of the Board of Adjustment Regular meeting on August 12, 2024.

On-Line Link: [Draft Minutes for August 12, 2024](#)

The minutes from the meeting August 12, 2024, were approved on Vice Chair's Melissa Hawthorne motion, Board member Michael Von Ohlen second on a 9-0 vote.

PUBLIC HEARINGS

Discussion and action on the following cases.

Previous Postponed cases:

2. C15-2024-0024 Christi Lane
2104 Westover Road

On-Line Link: [ITEM02 ADV PACKET PART1](#), [PART2](#); [PRESENTATION](#)

The applicant is requesting the following variance(s) from the Land Development Code, **Section 25-2-899** (*Fences as Accessory Uses*) to increase the height from eight (8) feet (maximum allowed) to twelve (12) feet (requested), in order to erect a fence on the east property line in a “SF-3-NP”, Single-Family-Neighborhood Plan zoning district (West Austin Neighborhood Group).

Note: *The Land Development Code 25-2-899 Fences as Accessory Uses*

- (A) *Except as otherwise provided in this chapter, a fence:*
- (1) *is permitted as an accessory use in any zoning district; and*
 - (2) *must comply with the requirements of this section.*
- (B) *In this section:*
- (1) *an ornamental fence is a fence with an open design that has a ratio of solid material to open space of not more than one to four; and*
 - (2) *a solid fence is a fence other than an ornamental fence.*
- (C) *The height restrictions of this section do not apply to an ornamental fence.*
- (D) *Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed a height of six feet measured from the natural grade up.*
- (E) *If there is a change in grade of at least one foot measured along any run of a solid fence along a property line, then the portion of the fence where the grade change occurs may be constructed to a maximum height of seven feet.*
- (F) *a solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files written consent to the construction of the fence with the building official; and*
- (1) *there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or*
 - (2) *a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six-foot fence and gain access to a hazardous situation, including a swimming pool.*
- (G) *A solid fence may be constructed to a maximum of eight feet in height if the fence is located on or within the building setback lines.*
- (H) *A solid fence may be constructed to a height of eight feet if the fence is located between a residential use and:*
- (1) *property zoned as a commercial or industrial base district;*
 - (2) *property used for a commercial or industrial use; or*
 - (3) *an alley that separates a residential use and:*
 - (a) *property zoned as a commercial or industrial base district; or*
 - (b) *property used for a commercial or industrial use.*
- (I) *Except as provided in Paragraph (1), a fence shall be constructed in accordance with this subsection.*
- (1) *This subsection does not apply to a fence that:*
 - (a) *was constructed before July 31, 2023; or*
 - (b) *is more than six feet in height and located on a property with a non-residential use.*
 - (2) *When more than 50 percent of the total linear distance of an existing fence is replaced, the entire fence must comply with this subsection.*
 - (3) *For new or replacement fences that follow historic design standards, this subsection will control if there is a conflict with the historic design standards.*
 - (4) *A fence may not include:*
 - (a) *spiked pickets, spiked bars, or other spiked decorative elements above the top horizontal backer rail;*
 - (b) *vertical pickets above the top horizontal backer rail if the vertical pickets are separated by more than two inches and less than nine inches;*
 - (c) *razor-like wire; or*

(d) barbed wire unless the fence is enclosing an airport or other landing area for aircraft and the use of barbed wire is required by Federal Aviation Administration regulation.

(5) A fence that creates a substantial risk of entrapment or impalement is prohibited.

(6) A solid chain link fence shall use knuckle selvage.

(J) A fence used as a swimming pool barrier shall comply with [Chapter 25-12](#), Article 14 (Swimming Pool and Spa Code).

Source: Section 13-2-308; Ord. 990225-70; Ord. 031211-11; Ord. 050127-64; [Ord. No. 20141120-181, Pt. 1, 12-1-14](#); [Ord. No. 20230720-156](#), Pt. 2, 7-31-23.

The public hearing was closed by Madam Chair Jessica Cohen, Madam Chair Jessica Cohen's motion to approve; Vice Chair Melissa Hawthorne second on 9-0 votes; GRANTED.

New Variance cases:

3. C15-2024-0026 Ryan Scurlock
4812 Palisade Drive

On-Line Link: [ITEM03 ADV PACKET](#); [PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code, **Section 25-2-551 (Lake Austin (LA) District Regulations) (C)(3)** from setback requirements to:

- increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 40.75 percent (maximum allowed) to 41.15 percent (requested)
- and**
- increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 17.10 percent (maximum allowed) to 18.32 percent (requested), in order to construct a swimming pool in a “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

For the above address the Subdivision Plat was recorded on September 23, 1980.

Land Development Code

Section 25-2-551 Lake Austin (LA) District Regulations

(A) In this section:

- (1) *SHORELINE* means the 492.8 topographic contour line along the shores of Lake Austin.
- (2) *SHORELINE SETBACK* means a line parallel to the shoreline and at a distance from the shoreline that is prescribed in this section.
- (3) *SHORELINE SETBACK AREA* means an area between the shoreline and the shoreline setback.

(B) This subsection specifies shoreline setbacks in a Lake Austin (LA) district.

(1) The shoreline setback is:

- a. 75 feet; or
- b. 25 feet, if:
 - i. The lot is located in a subdivision plat recorded before April 22, 1982, or is a legal tract exempt from the requirement to plat; and
 - ii. The distance between the shoreline and the front lot line, or the property line of a legal tract, is 200 or less.

(C) This specifies lot width and impervious cover restrictions in a Lake Austin (LA) district.

(3) For a lot included in a subdivision plat recorded before April 22, 1982, or a tract that is not required to be platted, impervious cover may not exceed:

- (a) 35 percent, on a slope with a gradient of 15 percent or less;
- (b) 10 percent, on a slope with a gradient of more than 15 percent and not more than 25 percent;
- (c) 5 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent; or
- (d) 40 percent, if impervious cover is transferred under Subsection (D).

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen's motion to approve; Vice Chair Melissa Hawthorne second on 9-0 votes; GRANTED.

4. C15-2024-0028 Haim Joseph Mahlof (Green Bay Remodeling, Inc.) for Wendy Jo Peterson
1406 S 3rd Street

On-Line Link: [ITEM04 ADV PACKET](#); [PRESENTATION](#)

The applicant is requesting the following variance(s) from the Land Development Code, **Section 25-2-779** (*Small Lot Single-Family Residential Use*) from setback requirements to decrease the minimum front yard setback from 15 feet (required) to 5 feet (requested) in order to attach a second story deck in a "SF-4A-NP", Single-Family - Neighborhood Plan zoning district (Bouldin Creek Neighborhood Plan).

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen's motion to postpone to October 14, 2024; Vice Chair Melissa Hawthorne second on 9-0 votes; POSTPONED TO OCTOBER 14, 2024.

Interpretation Appeal case:

5. C15-2024-0025 Appellant's Agent: Nicholl Wade - Appellant: Warren Konkel
Owner: Christy May
6708 Bridge Hill Cove

On-Line Link: [ITEM05 ADV PACKET APPEAL1 PART1](#), [PART2](#), [PART3](#), [PART4](#), [PART5](#), [PART6](#); [PART7 APPEAL2 PART 1](#), [PART2](#), [PART3](#), [PART4](#), [PART5](#), [PART6 PRENTATION UPDATED by appellant](#); [PRESENTATION by owner](#); [PRESENTATION by staff](#)

Summary of Appeal: Appellant challenges issuance of:

- Building Permit **2023-129658 BP**

and

- Building Permit **2023-129659BP**

on the grounds that the City of Austin incorrectly approved impervious cover (IC) of approximately 12,811 square feet, which exceeds IC limitations applicable within the Lake Austin (LA) zoning district.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen's motion to deny the appeal request and uphold staff's decision; Board member Brian Poteet second on 8-1 votes (Board member Maggie Shahrestani nay); APPEAL REQUEST DENIED AND UPHELD STAFF'S DECISION.

DISCUSSION ITEMS

6. Discussion of the August 12, 2024, Board of Adjustment activity report
On-Line Link: [ITEM06 August 12, 2024-MONTHLY REPORT](#)
DISCUSSED; POSTPONED TO October 14, 2024
7. Discussion of BOA Applicant Assistance Program
Link to <https://www.austintexas.gov/page/board-adjustments-support> and refer to the grant for low income homeowners
DISCUSSED; POSTPONED TO October 14, 2024
8. General discussion of fees and voting requirements for Board of Adjustment variances and special exceptions
Link to <https://www.austintexas.gov/edims/document.cfm?id=134658> [BOA Rules of Procedures](#)
Link to <https://services.austintexas.gov/edims/document.cfm?id=387491> [BOA Bylaws](#)
[BOA FEE SCHEDULE](#); [BOA VARIANCES FEE SCHEDULE](#); [BOA GUIDEBOOK](#)
DISCUSSED; POSTPONED TO October 14, 2024
9. General discussion regarding interpretation appeal process for new members
Link to [BOA Rules of Procedures](#) [BOA GUIDEBOOK](#)
DISCUSSED; POSTPONED TO October 14, 2024

DISCUSSION AND ACTION ITEMS

10. Discussion and possible action regarding the Board's Annual Internal Review Report (July 1, 2023-June 30, 2024) to Council
DISCUSSED (remove from agenda)

FUTURE AGENDA ITEMS AND ANNOUNCEMENTS

ADJOURNMENT 7:34PM

The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 business days before the meeting date. Please call the Board Liaison Elaine Ramirez, Development Services Department at 512-974-2202 or

email elaine.ramirez@austintexas.gov or the Board Secretary Diana Ramirez, Development Services Department at 512-974-2241 or email diana.ramirez@austintexas.gov , for additional information; TTY users route through Relay Texas at 711.

For more information on the Board of Adjustment, please contact Board Liaison's Elaine Ramirez, Development Services Department at [512-974-2202](tel:512-974-2202)/elaine.ramirez@austintexas.gov