

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
ITEM06

DATE: Monday December 9, 2024

CASE NUMBER: C15-2024-0042

Y Thomas Ates (D1)
 Y Bianca A Medina-Leal (D2)
 Y Jessica Cohen (D3)
 Y Yung-ju Kim (D4)
 Y Melissa Hawthorne (D5)
 Y Jeffery Bowen (D6)
 Y Janel Venzant (D7)
 - Margaret Shahrestani (D8) **OUT**
 Y Brian Poteet (D9)
 Y Michael Von Ohlen (D10)
 - Marcel Gutierrez-Garza (M) **OUT**
 - VACANT (Alternate) (M)
 Y Suzanne Valentine (Alternate) (M)
 - VACANT (Alternate) (M)

OWNER/APPLICANT: Scott Jacobs

ADDRESS: 2003 ARPDAL STREET

VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code, Section(s):

- **25-2-492 (*Site Development Regulations*)** from setback requirements to decrease the interior side yard setback (East side) from 5 feet (required) to 4.4 feet (requested)
- **25-2-773 (*Duplex, Two-Unit, and Three-Unit Residential Uses*):**
 - (1) reduce minimum lot area from 5,750 sq. ft. (minimum allowed) to 5,500 sq. ft (requested)
 - (3) (a) reduce rear setback from 10 feet (required) to 5.5 feet (requested)

in order to allow for Single-Family dwelling and accessory dwelling on the lot in a “SF-3”, Single-Family zoning district.

Note: To allow two dwelling units. Existing garage, built in 1949, was converted into dwelling in the early 1990's without a permit. The goal for this variance would be to properly permit it as an accessory dwelling.

LDC, 25-2-773 - DUPLEX, TWO-UNIT, AND THREE-UNIT RESIDENTIAL USES.

(A) To the extent of conflict, this section supersedes the base zoning district regulations.

(B) For a duplex, two-unit, and three-unit residential use:

(1) minimum lot area is 5,750 square feet;

(2) minimum front yard setback is 15 feet;

(3) minimum rear yard setback is:

(a) the base zoning district minimum rear yard setback; or

(b) five feet when the lot is adjacent to:

(i) an alley; or

(ii) another lot with a use that is permitted in a multifamily base zoning district or less restrictive base zoning district;

(4) minimum street-side yard setback for a lot located on a corner and:

(a) on a Level 1 street is the greater of five feet from the property line or 10 feet from curb, or in the absence of curbs, from the edge of the pavement; or

(b) on a Level 2, Level 3, or Level 4 street is 10 feet from the property line;

(5) minimum number of street-facing entrances is one;

(6) maximum building coverage is 40 percent; and

(7) maximum impervious cover is 45 percent.

(E) This subsection applies to the area established in Subsection 1.2.1 of Chapter 252, Subchapter F (Residential Design and Compatibility Standards).

(1) In this subsection,

(a) **EXISTING DWELLING UNIT** means a dwelling unit that is:

(i) legally permitted and occupied before December 7, 2023; or

(ii) described in an application for a residential permit that was submitted on or before December 7, 2023.

(b) **GROSS FLOOR AREA** means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls, except as provided in this subsection.

(2) **Gross Floor Area Exclusions.**

(a) For a property that includes an existing dwelling unit that was constructed on or before December 31, 1960, the property owner may exclude the preserved square footage from the gross floor area if the requirements in Subsection (F) are met.

(b) For a property that includes an existing dwelling unit that was constructed on or after January 1, 1961, and is at least 20 years old, the property owner may exclude the preserved square footage from the gross floor area if the requirements in Subsection (F) are met.

(3) **Floor-to-area ratio for a duplex or two-unit residential use.**

(a) The maximum floor-to-area ratio for the site is the greater of 0.55 or 3,200 square feet.

(b) Except for an existing dwelling unit, a dwelling unit may not exceed the greater of 0.4 or 2,300 square feet.

(4) **Floor-to-area ratio for three-unit residential use.**

(a) The maximum floor-to-area ratio for the site is the greater of 0.65 or 4,350 square feet.

(b) Except for an existing dwelling unit, a dwelling unit may not exceed the greater of 0.4 or 2,300 square feet.

(c) Except for two existing dwelling units, two dwelling units may not exceed the greater of 0.55 or 3,200 square feet.

Source: Section 13-2-254; Ord. 990225-70; Ord. 000309-39; Ord. 030605-49; Ord. 031120-44; Ord. 031211-11; Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093; [Ord. No. 20231102-028](#), Pt. 12, 11-13-23; [Ord. No. 20231207-001](#), Pt. 8, 12-18-23.

BOARD'S DECISION: November 14, 2024 Postponed to December 9, 2024 due to the absence of a sufficient number of Board Members required for a formal vote on each case; December 9, 2024 The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen's motion to approve (as previous case C15-2021-0067) with conditions lot size of 5,500 square feet, limiting building cover to 40%, limiting impervious

cover to 45%, F.A.R. 0.4 to 1 ratio, no further encroachment of Accessory Structure and limit to 15 feet in height and a single-story; Board member Suzanne Valentine seconds on 10-0 votes; GRANTED (AS CASE C15-2021-0067) WITH CONDITIONS LOT SIZE OF 5,500 SQUARE FEET, LIMITING BUILDING COVER TO 40%, LIMITING IMPERVIOUS COVER TO 45%, F.A.R. 0.4 TO 1 RATIO, NO FURTHER ENCROACHMENT OF ACCESSORY STRUCTURE AND LIMIT TO 15 FEET IN HEIGHT AND A SINGLE-STORY.

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the existing accessory dwelling was constructed first in 1949 as a garage and remodeled into a dwelling in 1990's permit history suggests work on the structure began in 1990, when the property was purchased by current owner.


2. (a) The hardship for which the variance is requested is unique to the property in that: not all the lots in the area have a structure built in 1949 that was converted to an accessory dwelling in the 1990's, poor construction and poor permit enforcement resulted in the owner inheriting an unpermitted accessory dwelling, the structure and foundation have been in place since 1949 so setbacks cannot change, the construction to eradicate the issue would cause unwanted noise, waste, disturbance and traffic for the area.

(b) The hardship is not general to the area in which the property is located because: lots in my area do not have a garage built in 1949 in the rear of their property that are of sufficient size to be used as an accessory dwelling.

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 front residence, built in 1949, and rear residence have existed in their current configuration since the 1990's and as such have been keeping with the character of the neighborhood.



Elaine Ramirez
Executive Liaison

 for

Jessica Cohen
Madam Chair