

C15-2025-0035 / 205 E 34th St

Presentation on Behalf of
Bob Kaler and Carol Journey (Appellant)

Please **DENY** Request for Reconsideration

- **Unanimous decision.**
- **Significant deliberation.**
- **Significant public testimony.**
- **Correctly decided.**

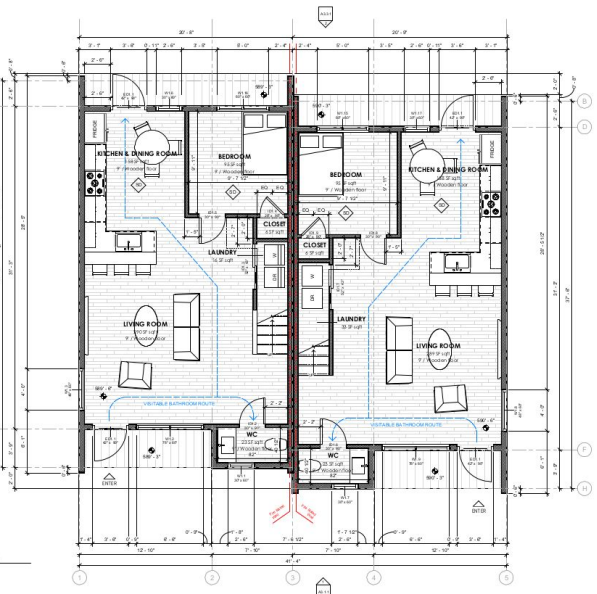
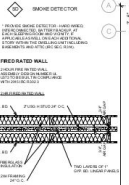
Board Decision:

1) The number of units shown in the design should be interpreted as greater than three (3).

- **Correctly decided.**
- **Duplex duplicated on site (Buildings 1 and 2, identical footprint)**
- **Nearly identical floorplans (each bldg has 10 bedrooms, 5 bathrooms, 3rd floor with additional room).**
- **Four main entrances.**
- **1-foot drop off between units.**
- **Wall Plan shows enclosed, separate units.**
- **Post-hearing modifications not a valid reason for reconsideration.**

ITEM09/4-PRESENTATION APPELLANT

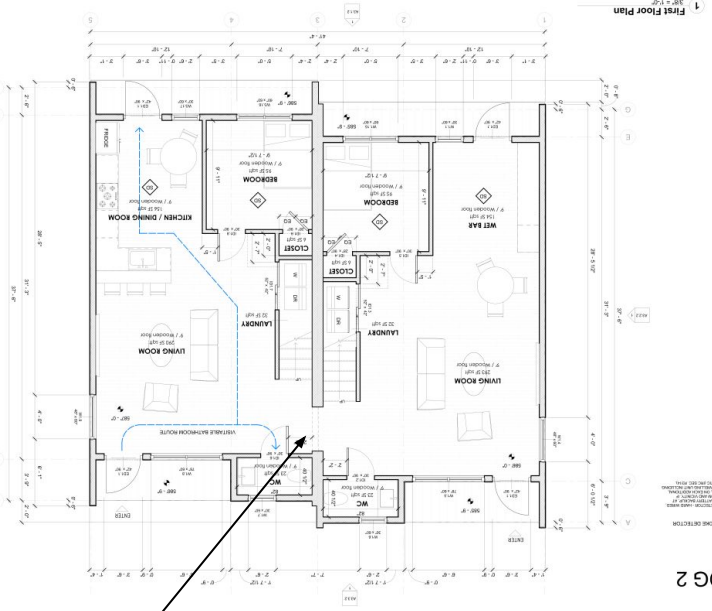
**BLDG 1
UNIT 1A&1B**



REVISIONS:
1. Add fire-rated door to kitchen and dining room.
2. Add fire-rated door to bedroom.
3. Add fire-rated door to living room.
4. Add fire-rated door to laundry.
5. Add fire-rated door to bathroom.
6. Add fire-rated door to closet.
7. Add fire-rated door to entry.
8. Add fire-rated door to exit.
9. Add fire-rated door to stairs.
10. Add fire-rated door to utility room.

APPROVED
LOT 3 - E. 34TH STREET
205 E 34TH

APPROVED
LOT 3 - E. 34TH STREET
205 E 34TH



~1 ft. elevation drop between floors

First Floors

BLDG 1
UNIT 1A&1B



Second Floors

205 E 34TH LOT 3 - E. 34TH STREET

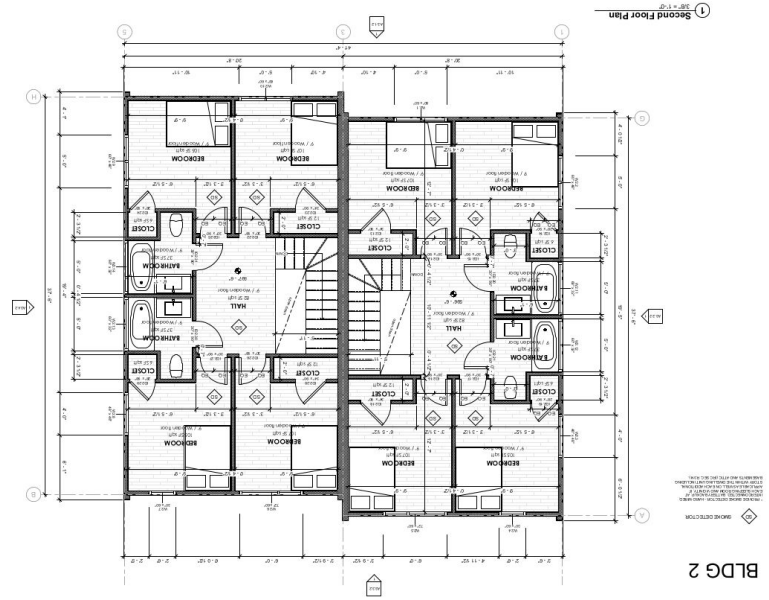
A2.2.1

APPROVED

H STREET

ITEM09/5-PRESENTATION APPELLANT

Identical.



Board Decision:

2) The average front yard setback should have been calculated from the four (4) adjacent properties on the same side of the street. The average side yard separation should be calculated per the nccd.

- **Correctly decided.**
- **City staff in agreement that setbacks not compliant with NCCD zoning ordinance:**
 - “The minimum front yard setback equals the average of the front yard setbacks of the principal single-family buildings on the same side of the street of a block.” Part 6, Section 3.a. of Ordinance No. 040826-58 (NCCD).
 - “A new principal structure must be at least 10’ from a principal structure on an adjacent lot.” Part 7, Section 1 of Ordinance No. 040826-58 (NCCD).
- **Post-hearing modifications not a valid reason for reconsideration.**

Board Decision:

3) The approved plans should meet the criteria for FAR requirements under the gross floor area definition of attic in 25-2-773 (E)(1)(b). The definition of floor in 25-2-773 (E)(1)(b) is not limited to whether the floor is load-bearing or not .

- **Correctly decided.**
- **BOA decision consistent with staff explanation (next slide).**
- “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.” LDC 25-2-773 (E)(1)(b).

ITEM09/9-PRESENTATION APPELLANT



Garwood, Lyndi
to Brent, me, Keith ▾

Hi Chris,

The application of Gross Floor Area (GFA) is dependent on the number of units and the size of lot (see chart below).

Unit Type	GFA Code Section
Single-Family	Subchapter F
Small Lot Single-Family	25-2-779
Two-Unit	25-2-773
Duplex	
Three-Unit	
Four Units or More	25-1-21

The definition of GFA in 25-2-779/-773 and 25-1-21 include all enclosed area with a clear height of six feet with minimal exceptions. Attics are not one of the few included exceptions, so portions of an attic over six feet in height count towards the overall GFA. Portions that are under six feet in height do not count towards GFA.

As the definition specifies "enclosed" space and not "habitable" or "conditioned," this is the rule for both finished/conditioned attics and unfinished/unconditioned attics.

Best,

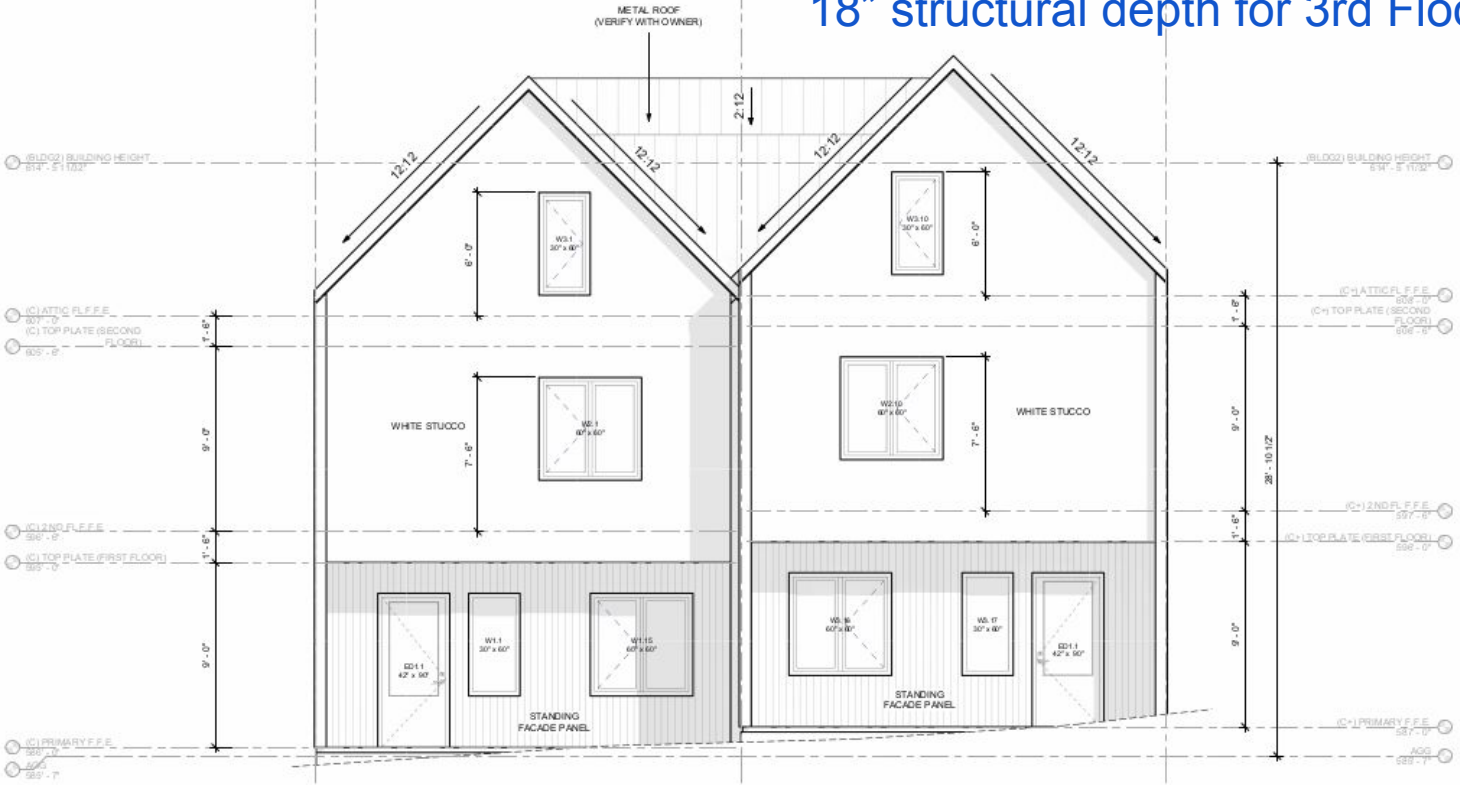


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ITEM09/10-PRESENTATION APPELLANT

18" structural depth for 3rd Floor



1 North
3/8" = 1'-0"



ITEM09/11-PRESENTATION APPELLANT

Egress window for 3rd Floor



1 South
3/8" = 1'-0"



ITEM09/12-PRESENTATION APPELLANT

Permit Holder Claims:

“The first ground for reconsideration is procedural. The official transcript shows that several Board members explicitly sought to issue a narrow decision confined to the case at hand. Nonetheless, at the end of deliberation, new language was introduced redefining attic space with more than six feet of height as ‘floor area.’ This addition was not noticed, analyzed, or discussed during public deliberation, and it extended the decision far beyond the subject property.”

This claim is baseless.



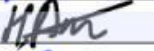

- Notice Was Proper:

Agenda Notice: “The appellant has filed an appeal challenging the approval of a building permit (BP No. 2025-072930) and related construction plans for proposed development of a three-unit residential use at 205 East 34th Street, Austin, TX 78705. **The appeal alleges that City staff’s decision to approve the permit failed to comply with applicable zoning regulations, including requirements of the North University Neighborhood Conservation-Neighborhood Plan (NCCD-NP) Combining District (Ordinance No. 040826-58) and/or Chapter 25-2 relating to required setbacks, limits on gross floor area, and other site development standards,** as well as requirements for development applications in Section 25-1-82 (NonSubdivision Application Requirements and Expiration).”

- **Attic Issues Raised By Several Speakers During Public Hearing.**
- **Board of Adjustment Discussed Language Significantly (for Hours).**
- **Board of Adjustment voted unanimously after settling on the findings and reading them multiple times.**
- **It was a code interpretation consistent with history of 25-2-773 and prior city staff guidance; not a “redefinition.”**

Permit Holder's Application Issues.

- In the request for reconsideration, permit holder includes several distortions of fact about documented concerns resulting from statements made by her own consultants, her use of architectural designs that are the intellectual property of Urban Building Services of Texas LLC, and her use of a "nickname" to sign-off on the application as a "Design Professional."
- These are extraneous issues that go beyond the scope of the Board of Adjustment and have no bearing on the merit of her request for a reconsideration.

Owner's name & signature: <u>Kateryna lushchenko</u>		Date: <u>06/04/2025</u>
Applicant's name & signature: <u>Kateryna lushchenko</u>		Date: <u>06/04/2025</u>
Design Professional's name & signature: <u>Anna Hendrix</u>		Date: <u>06/02/2025</u>
General Contractor's name & signature: <u>Kateryna lushchenko</u>		Date: <u>06/04/2025</u>

Ms. Jushchenko: "Just to save your time: Anna Hendrix lushchenko is my nickname with TREC to protect my identity. I am licensed agent."

Improper Use of “Reconsideration”

- **Permit Holder should submit new plans for City staff review and consideration, consistent with the BOA’s decision.**
- **A motion for reconsideration is not the appropriate process for submitting new plans.**

Deny Request

- **We ask that you DENY the Request for Reconsideration and let the prior BOA decision stand.**

Other Issues Not Reached

- **In the event that the BOA moves to reconsider, we request a decision on the remaining issued that were deferred, including:**
 - **Applicability of the FAR limit from the NCCD on Three-Family Uses.**

ITEM09/15-PRESENTATION APPELLANT

PART 7. RESIDENTIAL DISTRICT. The Residential District is intended to protect the original buildings and development patterns of the neighborhood that were established for residential use. Single family homes and some of the older multi-family structures were built in the context of the traditional development patterns. New residential development should respect traditional patterns including building orientation, scale, height, setbacks and parking location.

1. Site development standards table. Except as otherwise modified in this part, the following site development regulations apply.

RESIDENTIAL DISTRICT	SITE DEVELOPMENT STANDARDS				
	SF-2/SF-3	MF-1	MF-2	MF-3 thru MF-6	NO
Min. lot size	5750*	8000*	8000*	8000*	5750*
Min. lot width	50*	50*	50*	50*	50%
Max. FAR	Duplex 0.4:1	0.5:1	0.5:1	0.5:1	0.35:1
Max. building coverage	40%	45%	50%	55%	35%

Neighborhood has many multi-unit buildings (including triplexes) under 0.4 FAR and 0.5 FAR (0.5 FAR max for all residential uses).