



To: Chair Cohen
Board of Adjustment Members

From: Brent D. Lloyd, Development Officer, ADS
Lyndi Garwood, Principal Planner, ADS

Date: October 30, 2025

Subject: **Appeal of Development Approval Issued for 6706 Bridge Hill Cove**

The appellant challenges an administrative revision approved on September 24, 2025, which modifies construction plans initially approved in 2022 (Plan Review No. 2022-0060407PR) as well as revisions to the following associated permits:

- Building Permit No. 2022-093202BP (home remodel/additions); and
- Building Permit no. 2022-093203BP (pool)

The appeal alleges that the approved work violates applicable regulations of the Lake Austin (LA) zoning district and limitations on the modification or expansion of a legally noncomplying structure under *Land Development Code* (“LDC”) Section 25-2-963 (*Modification and Maintenance of Noncomplying Structures*).

Summary of Issues & ADS’s Position

As with many structures that were initially built along Lake Austin prior to annexation, portions of the residence at 6706 Bridge Hill Cove are legally “noncomplying” with site development standards applicable in the Lake Austin zoning district. This means, in essence, that the structure complied with the regulations in effect at the time it was initially built, but does not meet all currently applicable site development standards.

Property owners are allowed to maintain noncomplying structures without bringing them into compliance with current site development standards. However, LDC Section 25-2-963 (*Modification and Maintenance of Noncomplying Structures*) limits the degree to which noncomplying structures may be altered and generally prohibits expansions that “increase the degree of noncompliance” outside of the modifications specifically authorized in code.

In this case, the pool deck and portions of the residence along the southern property line are noncomplying with the 10-foot side-yard setback that applies in the LA zoning district per LDC Sec. 25-2-492 (*Site Development Regulations*). The main issues in the appeal

hinge on whether recently approved revisions to a prior 2022 permit for a remodel/addition authorized development in excess of what is allowed under LDC Sec. 25-2-963.

The parties to this appeal are Warren Konkel, the permit applicant and owner of the subject property, and the appellant, Christy May, who owns the adjacent property at 6708 Bridge Hill Cove. Both are represented by counsel, who have contrary views on the validity of the appeal and whether permit revisions approved by staff comply with LDC Sec. 25-2-963 and other applicable regulations. They will be prepared to present their positions to the Board at the November 10 public hearing.

Staff recommends that the Board dismiss the appeal and uphold the permit revisions on the following grounds:

- 1) ***Modifications to the pool deck to accommodate habitable space below the deck were approved in 2022 and are not part of the recently approved permit revisions.***

In 2022, the applicant obtained approval of a building permit for a remodel/addition to the existing single-family home at 6706 Bridge Hill Cove. The permit authorized a complete interior remodel and additions to the first, second, and basement-level floors, as well as expansion of the garage and extensive remodel of the pool deck.

Appellant argues that the 2022 permit approving the reconfiguration and expansion of the pool deck violated LDC Section 25-2-963 (*Modification and Maintenance of Noncomplying Structures*) by elevating the deck to accommodate habitable space below and thereby increasing structural mass within the setback.

While the permit revisions approved on September 24, 2025 added an outdoor kitchen and steel trellis to the deck, no changes were proposed to the structural design of the deck from what was previously approved in 2022. For this reason, and because approval of the 2022 building permit is outside the 20-day appeal period, staff recommends that the Board treat this portion of the project as an existing condition and not rule on whether work approved in 2022 complies with LDC Section 25-2-963.

Going forward, staff is committed to improving the review process for applications proposing to modify noncomplying structures. Specifically, reviewers have sought to require more thorough plan submittals that better account for the different ways in which modifications to older structures may increase the degree of noncompliance.

- 2) ***Modifications to the 2nd floor comply with LDC Section 25-2-963(F), which authorized limited expansion of structures within a setback***

LDC Section 25-2-963(F)(2) permits a landowner to increase the length an existing noncomplying structure in a required yard setback by no more than 50 percent of the

existing non-complying portion of the building or 25 feet, whichever is less. Staff has consistently interpreted this allowance to apply per floor of a structure, allowing each floor with existing floor area in a required yard setback to extend in length the permitted amount. If a floor does not have an existing portion in a required yard, that floor is not eligible to add new noncomplying area to the structure.

The existing structure had approximately 42 feet of length in the side yard setback, making that floor eligible to extend the approximately 21 feet permitted by 25-2-963(F)(2). The 2025 permit revision expanded the portion of the second floor within the setback by the entire 21 feet of additional length allowed by code.

3) *Modifications to the trellis comply with LDC Section 25-2-963(F), which authorized limited expansion of structures within a setback.*

As previously outlined, the City approved a permit to remodel the existing pool deck in 2022. As part of the 2025 permit revision, the applicant added a steel trellis and outdoor kitchen to the existing patio.

Staff initially rejected the trellis on the grounds that it appeared to be a deck for the second floor, which would have exceeded the second floor's modified length allowed by LDC Section 25-2-963(F)(2). Upon clarification that the trellis was not habitable by the second floor and was only serving as a shade structure for the pool deck, the 25 feet of allowed additional length was calculated based on the legally existing, non-complying portion of the first floor.

However, staff rejected the trellis a second time because the proposed design was 25' 10 ¼" in length, exceeding the allowance by 10 ¼". In response, the applicant's design team notified staff that there had been a mistake in determining the length of the existing non-complying portion of the building. The extent of the building's existing exterior façade had been calculated to the structural column for the balcony; however, the fascia and tile had not been accounted for, and the inclusion of this façade extended the existing structure an additional 9 ½". Since the code provides that gross floor area is "*measured to the outside surface of the exterior walls,*" the additional 9 ½" of fascia *did* count towards the existing non-complying portion of the building.

The trellis was still designed to be attached at the existing structural column, which meant that only ¾" of the trellis exceeded the 25' allowance when measured from the existing non-complying building's exterior wall. Prior to approval of the permit revision, the applicant was required to remove the excess ¾" from the trellis in accordance with LDC Section 25-2-963(F)(2). The applicant has now used the entirety of the 25 feet of additional length allowed in the setback for the first floor.

Procedural Requirements

In administering the appeals process, DSD staff has treated this matter as properly before the Board because it was filed within 20 days of the date the permit revisions were approved¹ and because the named appellant, Ms. Christy May, owns property within 200 feet of the subject property. Additionally, when viewed as a whole, DSD believes that the appellant's initial filing and subsequent submittals are sufficient to address the issues that an appeal is required to cover under LDC Section 25-1-182 (*Initiating an Appeal*).

That said, we understand that the applicant objects to the appellant's standing to appeal and has challenged the legal sufficiency of her filings. We encourage the Board to seek advice from its legal counsel on these issues and defer to whatever determination the Board makes on standing.

If the Board decides to consider the appeal, it may affirm, reverse, or modify staff's decision to approve the revised plans, in whole or in part, and may make whatever determination the Board finds to be correct based on the applicable zoning regulations and the evidence before you at the November 10 public hearing. Per LDC Sec. 25-1-190 (*Appellate Burden*), the appellant must establish that the approved permit revisions are contrary to applicable regulations.

¹ Revisions to active building permits are memorialized as City approval stamps on the revised construction plans and denoted in the public-facing "ABC" permit portal. In this case, the revisions adding the steel trellis and modifying the second floor were approved on September 24, 2025.