

Staff Report**Agenda Item**

Height Variance: Optimized Engineering, the agent for the owner of 4936 Bee Creek Road, is requesting a variance to Sec. 30.03.009 of the code of ordinances including but not limited to building height.

Background Information

In November of 2019, City Council approved a Special Use Permit to allow for a health/exercise club located at 4936 Bee Creek Road. The applicant has plans to build an indoor sports arena with volleyball and basketball courts and incorporate a trampoline that can elevate to the ceiling when not in use.

In order to accomplish this, the applicant is requesting a maximum building height of 40' which would require a variance to the allowable building height of 32' in C-1 zoned districts.

Action Requested

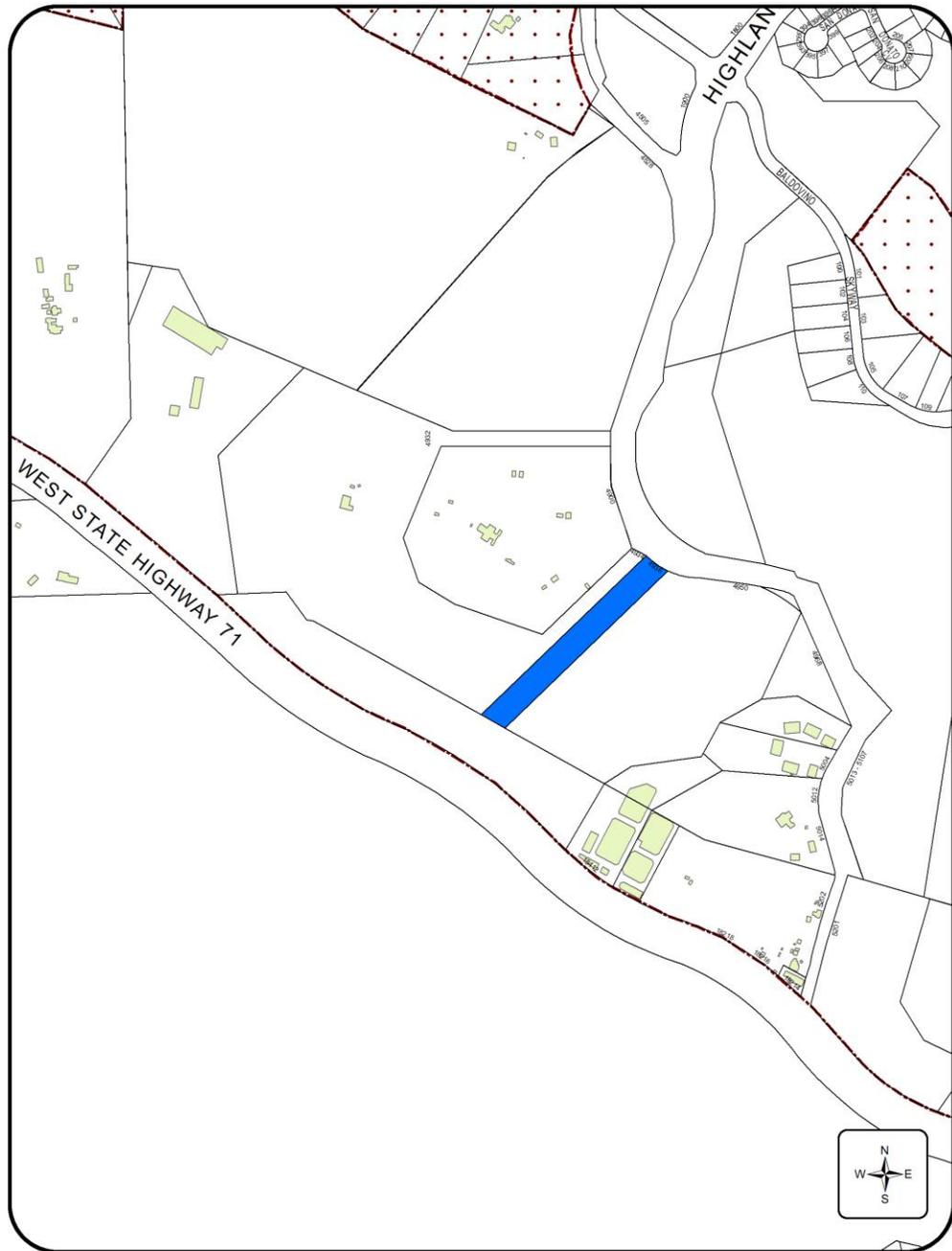
BOA final determination regarding a variance to Sec. 30.03.009 to allow for a maximum building height of 40' for the proposed indoor sports arena located at 4936 Bee Creek Road.

Attachments

- Location Map
- Application
- Justification Letter
- Exhibit(s)
- Notification Area Map
- Public Notice
- Reference

Location Map

4936 BEE CREEK RD



Application



Building & Development Services
 1102 Lohmans Crossing, Lakeway, TX 78734
 Phone: (512) 314-7540 Fax: (512) 314-7541
www.lakeway-tx.gov

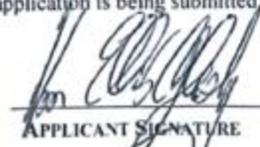
APPLICATION FOR VARIANCE
 (CHECK ONE & INCLUDE SUPPORTING MATERIAL ON CHECKLIST)

ZONING DEVELOPMENT BUILDING SIGN

ADDRESS OF PROPERTY: 4936 Bee Creek Rd., Spicewood, Texas 78669		ACREAGE OF SITE: 3.00 Acres	
LEGAL DESCRIPTION (SUBDIVISION, SECTION, LOT NUMBER): ABS 2123 SUR 85 Rusk Transport Co. ACR 3.00			
PROPERTY OWNER: Ellis Oglesby	CONTACT NAME: Travis Robinson	TELEPHONE: 512-887-3191	E-MAIL: travis@optimizedeng.com
MAILING ADDRESS: 1501 Bunton Creek Rd. Ste. 106		CITY: Kyle	STATE ZIP CODE TX 78640
PROJECT ENGINEER FIRM: Optimized Engineering	CONTACT NAME: Travis Robinson	TELEPHONE: 512-887-3191	E-MAIL: travis@optimizedeng.com
MAILING ADDRESS: 1501 Bunton Creek Rd. Ste. 106		CITY: Kyle	STATE ZIP CODE TX 78640
PROJECT FOR WHICH VARIANCE IS SOUGHT: Old Bee Creek Road		APPLICABLE SECTION/SUBSECTION OF ORDINANCE: 30.03.009(j)	
SPECIFIC USE OF THE PROPERTY: Multipurpose Recreational Facility		EXISTING USES OF ADJACENT PROPERTIES: Middle School, Stables, Commercial	

SUBMITTAL VERIFICATION/INSPECTION AUTHORIZATION:

That I, as owner or duly authorized officer of the property hereinafter referenced, do hereby execute this document, acknowledge the above statements to be true and accurate to the best of knowledge, and understand that knowing and willful falsification of information will result in rejection of my application and may be subject to criminal prosecution. I have received, read and understand the terms and conditions of this request, and agree to compliance with all applicable codes and ordinances of the City. I authorize the City or their representatives to visit and inspect the property for which this application is being submitted.



 APPLICANT SIGNATURE

Ellis Oglesby 10/3/18

 PRINTED NAME DATE

(FOR CITY USE ONLY)

PERMIT NUMBER:
18001768

AMOUNT RECEIVED:

NOTES:



Letter of Justification

**Optimized
Engineering**
www.optimizedeng.com

1501 Bunton Creek Rd. Suite #106
Kyle, TX 78640
512.887.3191
TBPE FIRM F-15307

September 24, 2018

Paul Duncan, PE
City Engineer, City of Lakeway
1102 Lohmans Crossing
Lakeway, TX 78734

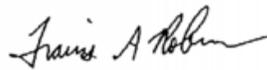
RE: Old Bee Creek Road Recreational Facility – Building Height
Mr. Duncan,

The above-mentioned project is being considered by a developer to build an indoor sports arena with volleyball & basketball courts. Another aspect of the design is to incorporate a trampoline which can elevate to the ceiling when not in use. In order to make this fit within the building, the maximum building height needs to be 40' tall.

The property is currently zoned C-1 which has a maximum height limit of the 32' according to City of Lakeway Code Section 30.03.009 (j). The property owner is seeking a variance to this code in order to allow for a 40' maximum building height above the highest natural grade under the slab.

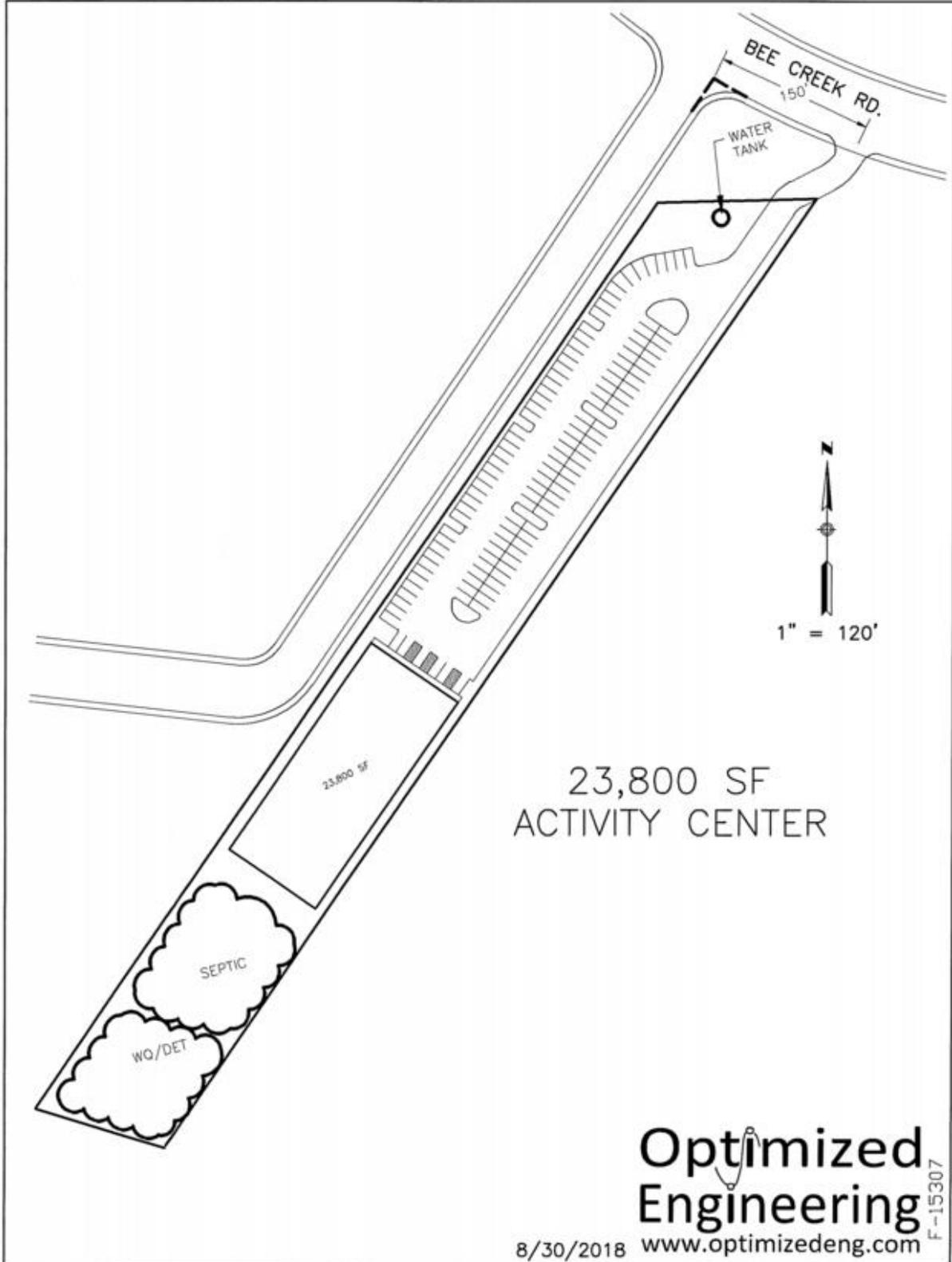
Please contact me for any further questions.

Best Regards,



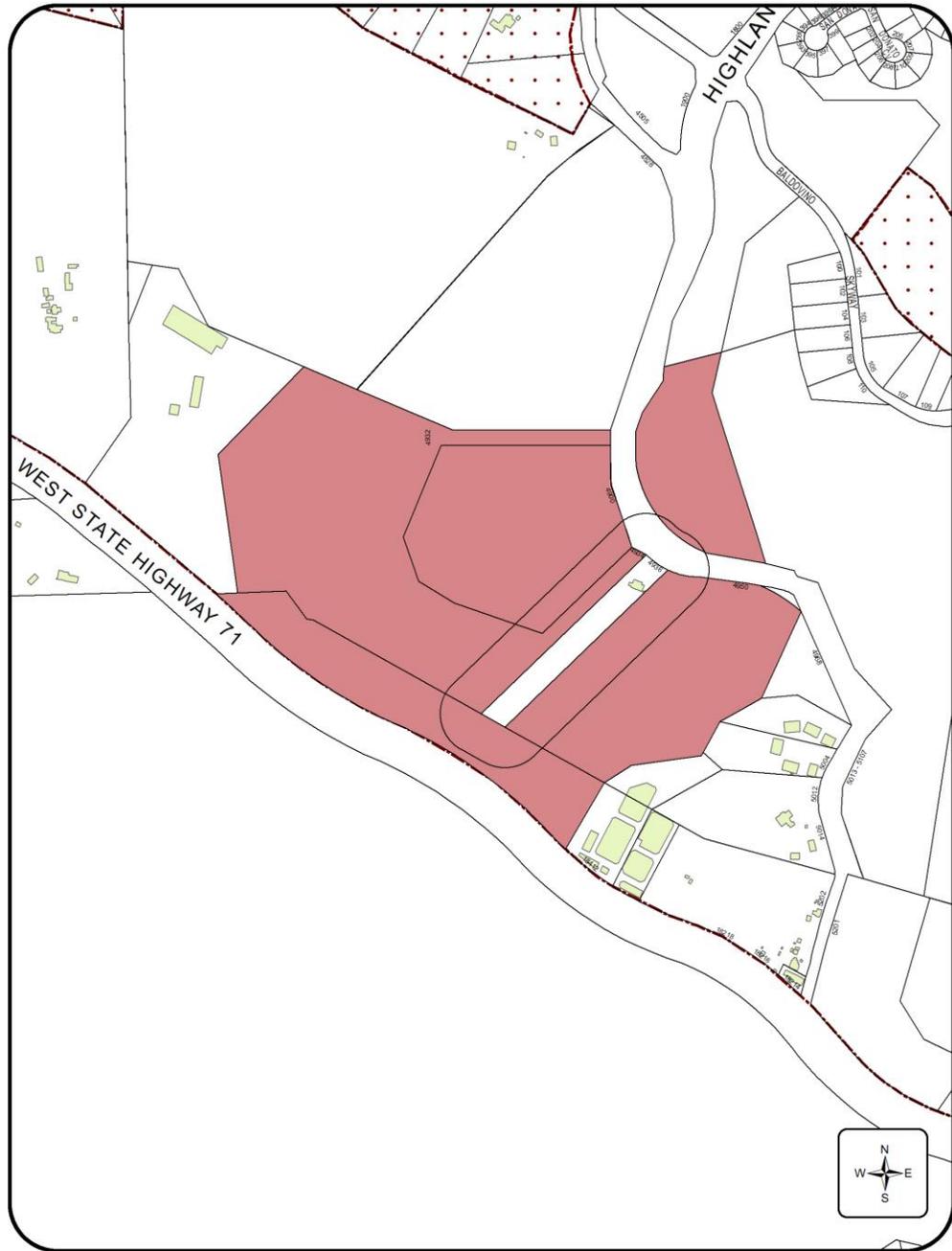
Travis A. Robinson, P.E.
Principal Engineer

Exhibit(s)



Notification Area Map
● 200' Notification Area

4936 BEE CREEK RD



Public Notice

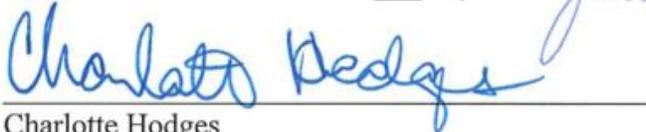
For Publication in the Austin American Statesman, February 4

**NOTICE OF PUBLIC HEARING
CITY OF LAKEWAY BOARD OF ADJUSTMENT**

Notice is hereby given that a public hearing will be held by the **Board of Adjustment** on **February 20, 2019** at **3:00 PM** in the City Hall located at 1102 Lohmans Crossing Road, City of Lakeway, Texas, at which time all persons wishing to do so will be allowed to speak for or against the following:

Optimized Engineering, the agent for the owner of 4936 Bee Creek Road, is requesting a variance to Sec. 30.03.009 of the code of ordinances including but not limited to building height.

ATTEST: Attested to this the 30th day of January, 2019.



Charlotte Hodges
BDS Director

CERTIFICATE: I certify this notice of public hearing was posted on the bulletin boards of the City of Lakeway, Texas on this the 30th day of January, 2019.



Erin Carr
Office Manager

Reference

Sec. 30.03.009 District C-1 (Office/Retail)

(a) Purpose. This district is intended to provide sites for business and professional office uses and for retail shopping facilities providing goods and services. The site should also contain adequate space for required off-street parking and for buffering from residential districts. (Ordinance 2003-09-15-1, sec. 3.09, adopted 9/15/03)

(b) Permitted uses. The following types of businesses are permitted by right within C-1 districts.

(1) Professional offices, such as accountants, architects, attorneys, engineers, brokers, consultants, insurance agents, real estate agents, travel agents, administrative offices, and other such offices not listed above as may be approved by the city council; and

(2) Accessory structures and uses to any of the foregoing uses.

(c) Conditional uses. The following types of businesses are permitted by right within C-1 districts unless the use is proposed for property that abuts property zoned for residential or school use or the building in which the use will operate is less than 300 feet from property zoned for residential or school use, in which case the use is subject to city council's approval of a special use permit pursuant to [article 30.05](#).

(1) Medical offices, such as physicians, dentists, physical rehabilitation facilities, and other such medical offices not listed above as may be approved by the city council;

(2) Retail and service businesses, such as restaurants, grocery stores, bakeries, catering services, ceramic/pottery shops, hardware stores, movie theaters, drugstores, financial institutions, general retail sales, antique shops, art galleries, personal services, beauty salons, barbershops, travel agencies, florists, laundry and dry cleaning, child-care facilities, health/exercise clubs, funeral homes, nonvehicle consumer repair services, and other such businesses not listed above as may be approved by the city council; and

(3) Accessory structures and uses to any of the foregoing uses.

(d) Special uses. The following types of businesses may be permitted within C-1 districts subject to the city council's approval of a special use permit pursuant to [article 30.05](#).

(1) Arcades, auto/truck washing facilities, bowling alleys, cemeteries, convenience stores, fast food restaurants, private clubs/lodges, radio or TV stations, service stations, gas stations, miniature golf facilities, batting cages, entertainment centers, vehicle rental facilities, moving truck rental facilities, liquor stores, convalescent homes, nursing homes, assisted living, and addiction rehabilitation facilities.

(2) Commercial wireless communications systems.

(3) Any use which includes drive-through facilities.

(4) Storage facilities, provided all of the following conditions are met.

(A) The proposed storage facility replaces an existing nonconforming use that has a substantial relationship to the proposed project.

(B) The architecture and landscaping of the proposed development complies with established standards for typical office building construction, and architectural and landscaping plans are submitted for review and approval with the special use permit application.

(C) Access to individual storage units is internal and individual unit doors are not visible from outside the building.

(e) Prohibited uses and structures.

(1) Any activity which produces nuisances as described herein.

(2) Any structure which exceeds 100,000 square feet.

(3) Any single business entity or commonly controlled business (including their affiliates or subsidiaries) which have multiple structures or multiple-story buildings containing an aggregate of more than 100,000 square feet of inside and outside sales or displays.

(4) Any attempt to circumvent the intent of this chapter by splitting the structures or using multi-story buildings will not be permitted.

(f) Minimum lot dimensions.

	<u>Organized Sewer</u>	<u>Private Sewerage Facility</u>
Minimum area:	1 acre	1 acre
Depth (min. ft.):	200	200

Width (min. ft.):	50	150
Width of lot at street (min. ft.):	50	50

Lot coverage (max. percentage): See development ordinance.

(g) Minimum building setbacks.

Building footprint (sq. ft.), organized sewer or private facility when abutting a residential area:

	<u>0 - 50,000 sq. ft.</u>	<u>50,000 - 100,000 sq. ft.</u>
Street(s) (ft.):	40	40
Side (ft.):	25	100
Rear (ft.):	40	100

Building footprint (sq. ft.), organized sewer or private facility when abutting a nonresidential usage:

	<u>0 - 50,000 sq. ft.</u>	<u>50,000 - 100,000 sq. ft.</u>
Street(s):	40	40
Side:	10 (25 golf course)	50
Rear:	40	50

(h) Minimum landscaped buffer zones (refer to development ordinance).

When abutting a:

	<u>Residential area:</u>	<u>Nonresidential usage:</u>
Street(s) (ft.):	5	5
Side (ft.):	20	5
Rear (ft.):	25	5

(i) Noise abatement. Noise abatement walls may be required for:

- (1) Special uses.

(2) Properties abutting residential uses.

(j) Maximum height. No part of any structure within this district, except for chimneys, attic ventilators and plumbing vent stacks, may exceed 32 feet in height above the highest natural grade under the slab. (Ordinance 2011-04-18-06, rev. 3 (ex. B (9)), adopted 4/18/11)

Sec. 30.07.161 Requirements

(a) Variances may be granted only when in harmony with the general purposes and intent of this chapter so that public health, safety and welfare may be secured and substantial justice done.

(b) Pecuniary hardship to the owner or developer, standing alone, shall not be deemed to constitute undue hardship.

(c) No variance shall be granted if it would provide the applicant with any special privileges not enjoyed by owners of other similarly situated property with similarly timed development.

(d) Variances to the provisions of this chapter may be granted if the variance meets all of the following requirements:

(1) A special individual reason makes the strict application of this chapter impractical.

(2) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

(3) The applicant will incur specific hardships should the variance not be granted.

(4) The modification is in conformity with the intent and purpose of this chapter.

(5) The granting of the variance will not be detrimental to the public health, safety, or welfare, convenience or injurious to the property in the area.

(6) The granting of the variance will not create the probability of harmful environmental consequences.

(7) The variance will not negatively impact traffic conditions.

(8) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter.

(e) Approval authority. All variances to the provisions of this chapter shall be granted by the board of adjustment. A recommendation from an administrative official may be requested by the board.

(f) Approval procedures.

(1) All requests for variances shall be made in writing to the code official. The request shall state the specific portion(s) of this chapter with which the proposed development will not comply and shall provide a detailed discussion as to why the applicant wishes to deviate from this chapter. The request should be accompanied by supportive materials as requested by the code official.

(2) The code official will review the requests for completeness and prepare a report for the board of adjustment. In making this report, the code official shall address the nature of the proposed use of the land involved, existing uses of land in the vicinity and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. The code official may forward the application to the city engineer for review and comment.

(3) The board of adjustment shall then review the request, hold a public hearing and make a final determination. The board may request a recommendation from an administrative official. The board may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance.

(4) After a determination has been made, the code official will provide the applicant with a letter stating the determination and noting any conditions for approval, if applicable.

(g) Notice.

(1) Public notices are required for variance applications. Written notice of all relevant board of adjustment hearings shall be given to the owners of all real property located within 200 feet in all directions of the property that is the subject of the hearing. Notice shall be given not less than ten (10) days prior to the date of the first hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at his address shown on the last approved city tax roll, with postage pre-paid.

(2) Such notice shall state the purpose, date, time, and place of the hearing and shall contain a brief description of the variance including its nature, scope,

and location. The notice shall also state the location and times at which the applications and supporting documents are available for public inspection. A telephone number shall be provided where information on the hearing(s) is or will be available at a later date.

(3) In addition, notice shall be given by publication at least ten (10) days in advance of the hearings of the board of adjustment in an official paper or a paper of general circulation in Travis County.

(h) Expiration. Variances expire concurrently with the permit for which they were granted.