

action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on April 27, 2023, by 6:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Nathan Glasier
Planning and Development Coordinator

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact City Secretary Tammy Cook at (512) 847-0025 two business days in advance of the meeting for appropriate arrangements.





City of Wimberley

221 Stillwater, Wimberley, Texas 78676

REGULAR BOARD OF ADJUSTMENT MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
MONDAY, JANUARY 9, 2023 - 6:00 PM

MINUTES

1. **CALL TO ORDER** January 9, 2023, at 6:00 PM

Chair Michael Rambo called the Board of Adjustment meeting to order at 6:00PM.

2. **CALL OF ROLL**

Board Members Present:

JoKathryn Quinn
Thomas Gordon
Michael Rambo
Pam Tise
Brian Woodward

Staff Present:

Nathan Glasier, Director of Planning & Public Works
Tammy Cook, City Secretary
Daniel Santee, City Attorney

3. **CITIZENS COMMUNICATIONS**

This provides an opportunity for the citizens to comment on agenda and non-agenda items in advance of the regular business of the Board of Adjustment. Those wishing to speak must sign-in before the meeting begins and observe a three-minute time limit when addressing the Board. Speakers will have one opportunity to speak during the time period. Comments from speakers should not be directed towards any specific member of the Board or City staff. Comments should not be accusatory, derogatory or threatening in nature.

4. **MINUTES**

- 4.1. Approval of minutes from the May 11, 2022, meeting of the Board of Adjustment.

A motion was made by Board Member Gordon, seconded by Board Member Tise to approve the May 11, 2022 Board of Adjustment meeting minutes. The motion carried by a vote of 4-0-1 with Board Member Quinn abstaining from a vote.

5. PUBLIC HEARING AND POSSIBLE ACTION

- 5.1. Hold a public hearing and consider possible action regarding Case No. BA-22-002, a request for a variance from the City of Wimberley code requirements to allow for a deviance in the maximum building height for a proposed commercial building located at 211 Joe Wimberley Blvd, Wimberley, Texas. (*Applicant: Jeffrey Dochen*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation on the request for a variance at 211 Joe Wimberley Blvd, that would allow for a deviance in the maximum building height for a proposed commercial building.

Upon completion of questions, Chair Rambo opened the Public Hearing at 6:06 p.m.

Those who spoke:

Jeffrey Dochen provided a presentation to the Board related to their proposed plans. He expressed the importance of being a good neighbor and making this building visually unobtrusive to neighbors. Board Member Woodward expressed concern about the height of the parking garage and asked what limitations have been given that are causing them to be unable to remain under the height requirements. Board Member Woodward offered suggestions that would allow this structure to be within the required height limits.

Steve Klepfer, expressed his opposition to this variance request. He provided his background on various boards, commissions, and the City Council and asked for denial of this request.

Carl Owens, expressed his opposition to this variance request. He stated the approval of this type of variance could create a future precedence. He believes City Ordinances should be followed instead of a request for a variance.

Linda Hewitt, stated that the City of Wimberley has been incorporated for twenty-three years and the citizens had a vision to protect the community and what makes Wimberley special. She expressed the importance of protecting the community and asked the board to deny this request.

Jeff Hogendaum, asked for denial of the request and stated the following reasons:

1. It would adversely affect the property value at 180 Joe Wimberley Blvd due to the obstruction of view this increased height would cause.
2. It would adversely affect the clientele that currently utilizes the property at 180 Joe Wimberley and their guests. The average tenure of guests is 12.2 years and the five tenants are Crescendo Enterprises, Wimberley Pediatrics, Long Term Solutions, Braun Engineering, and Maximum Wellness Chiropractor.
3. A sloped lot is not a special circumstance or reason for granting an easement.
4. Impervious Cover.
5. Parking Scenarios.
6. Variance request appears to be self-imposed and unnecessary

There being no further comments, Chair Rambo closed the Public Hearing at 6:40 p.m.

Mr. Glaiser stated that six findings of fact must be met in order to grant a variance.

- (A) That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this article would (i) deprive the applicant of the reasonable use of the property; and (ii) create an unnecessary hardship in the development of the property;
- (B) That such circumstances or conditions are (i) not self-imposed; (ii) not based solely on economic gain or loss; and (iii) do not generally affect most properties in the vicinity of the property;
- (C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (D) The variance if granted will not:
 - (i) Adversely affect the public health, safety or welfare;
 - (ii) Be contrary to the public interest; and

- (iii) Be injurious to or adversely affect the orderly use of other property within the area.
- (E) The property involved is otherwise in compliance with all other applicable city ordinances, rules, and regulations; and
- (F) The granting of the variance will be in harmony with the spirit and purpose of this article.

(A), (B), (C), (D), (F) - the consensus from the board is that none of these findings of fact are true
(E) - Mr. Glaiser stated this finding of fact is true.

A motion was made by Board Member Woodward, seconded by Board Member Gordon, to deny Case No. BA-22-002, a request for a variance from the City of Wimberley code requirements to allow for a deviance in the maximum building height for a proposed commercial building located at 211 Joe Wimberely Blvd. The motion to deny carried unanimously (5-0).

- 5.2.** Hold a public hearing and consider possible action regarding Case No. BA-22-003, a request for a variance from the City of Wimberley code requirements to allow for an encroachment into the interior side setback for a property located at 310 Mill Race, Wimberley, Texas. (*Applicant: Keepers Land Planning*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation on the request for a variance at 310 Mill Race, that would allow for an encroachment onto the interior side setback.

Chair Rambo opened the Public Hearing at 6:49 p.m.

Shae Willard, representing the applicants, Anastasia & Martin Ware, spoke on the request and provided information regarding the setback.

There being no further comments, Chair Rambo closed the Public Hearing at 6:53 p.m.

Mr. Glaiser went through the six findings of fact and the consensus was that all were true.

A motion was made by Board Member Woodward, seconded by Board Member Tise, to approve Case No. BA-22-003, a request for a variance that would allow for an encroachment into the interior side setback of a property located at 310 Mill Race. The motion to approve the variance carried unanimously.

6. BOARD MEMBER REPORTS

- 6.1.** Announcements

None.

- 6.2.** Future Agenda Items

None.

7. ADJOURNMENT

A motion was by Chair Rambo, seconded by Board Member Woodward to adjourn the Board of Adjustment Meeting at 6:57 p.m.

RECORDED BY:

Board of Adjustment Staff Liaison



APPROVED BY:

Board of Adjustment Chairperson



AGENDA ITEM:	BA-23-001
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	April 11, 2022
MEETING DATE:	May 11, 2022

REPORT

ITEM

The applicant, Austin Vaughan, has requested a variance from the Single Family Residential 3 development standards Sec. 9.03.074(d)2a that restricts the height of buildings and decks.

Maximum building height (as defined in section 9.03.005):

Primary residential building: **Not more than two stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;**

Section 9.03.005: Height. Of a structure, the vertical distance between the existing or finished grade under the structure, whichever is lower, to the highest point of the structure, including chimneys. For a stepped or terraced building, the height of each segment of the structure is determined individually.

Mr. Vaughan is requesting a residential structure that exceeds the requirements above (See exhibit). The proposed structure would exceed the height maximum of 35' by 6' 10¾" for a total height of 41' 10¾".

The proposed structure is located within a FEMA designated special flood hazard area and would need to be elevated to at least one (1) foot above the Base Flood Elevation (BFE) for the site. The current BFE in effect is 820'. The Preliminary BFE currently proposed by FEMA but not yet formally adopted is approximately 827'. The applicants are proposing building four feet above the preliminary. The City generally recommends at least building to the preliminary BFE.

PROPERTY INFORMATION

Property Description

Applicant(s):	Austin Vaughan
Property Address:	505 River Bend Rd
Property Owner:	Austin Vaughan
Legal Description:	Paradise Valley Section 3 Lot 11
Property Size:	~.3 acres

Existing Use of Property: Residential
Existing Zoning: Single-Family Residential 3
Proposed Use of Property: Residential
Request: Exceed Maximum building height by 6' 10¾"
Planning Area: I
Overlay District: Protected Waterway

Surrounding Property:

Frontage: Malone Dr/RR12

		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	R-3	Residential
	South of Property	R-A	Residential
	East of Property	R-A	Recreation
	West of Property	R-2	Residential

COMMENTS

Staff has not received any comments from neighboring property owners as of 4/27/2023.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): April 14, 2023
Published Legal Notice (Wimberley View): April 20, 2023

CRITERIA FOR CONSIDERATION

When considering granting a variance, the Board should consider the following criteria from the Wimberley Code of Ordinances Section 9.03.254 (f)(3):

- (A) That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this article would (i) deprive the applicant of the reasonable use of the property; and (ii) create an unnecessary hardship in the development of the property;
- (B) That such circumstances or conditions are (i) not self-imposed; (ii) not based solely on economic gain or loss; and (iii) do not generally affect most properties in the vicinity of the property;
- (C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (D) The variance if granted will not:
 - (i) Adversely affect the public health, safety or welfare;

(ii) Be contrary to the public interest; and

(iii) Be injurious to or adversely affect the orderly use of other property within the area.

(E) The property involved is otherwise in compliance with all other applicable city ordinances, rules, and regulations; and

(F) The granting of the variance will be in harmony with the spirit and purpose of this article.

ATTACHMENT/S

- Application for Variance
- Application Attachments

FOR OFFICIAL USE ONLY

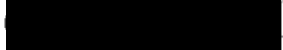
APPLICATION DATE: 3/8/23 FILE NO. BA-23-001


HEARING DATE: 4/17/23 PLANNING AREA: 1 ZONING: R3

VARIANCE FEES: \$ 500 DATE PAID: _____ RECEIVED BY: _____

City of Wimberley APPLICATION FOR VARIANCE

OWNER/AGENT INFORMATION

1. Owner's Name: AUSTIN VAUGHAN Home Phone: () _____
 Business Phone: () _____
 Cell Phone:  _____
 Fax: () _____

Current Mailing
 Address: 505 RIVER BEND Rd. City WIMBERLEY State Tx Zip 78676
 Email: 

2. Agent's Name: _____ Business Phone: () _____
 (Must be accompanied by letter of authorization from owner) Cell: () _____

Current Mailing
 Address: _____ City _____ State _____ Zip _____
 Email: _____

PROJECT DATA

1. Property ID#: R 37662 (Appears on your Tax Statement) Present Zoning: R3

Street Address of Project: 505 RIVER BEND Rd. Wimberley, Texas 78676
 (Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)

Subdivision: PARADISE VALLEY Lot: 11 Block: _____ Recorded in Vol. 1 Page 15-16
SECTION 3

2. IS PROPERTY IN AN OVERLAY DISTRICT? YES _____ NO UNKNOWN _____
 TYPE OF OVERLAY ZONE(S) (if applicable) _____

Project Data (Continued)

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): X/AE

4. WASTEWATER SYSTEM: Septic; Aqua Utility; GBRA
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): N/A

5. Directions to your Project: FROM CITY HALL, CROSS RR12 TO VALLEY DR.
TURN RIGHT AT THE NEXT STOP SIGN, CONTINUE ACROSS LOW
WATER BRIDGE, THEN TURN LEFT ON RIVER BEND Rd.
505 RIVER BEND Rd IS THE LAST LOT ON THE LEFT.

Please clearly mark your property so it is easily identifiable.

SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:

9.03.074.d.2.a - HEIGHT NOT MORE THAN 35 FEET

REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)

- HOME MUST BE RAISED OUT OF FLOODPLAIN. IF PROPOSED
HOME WERE BUILT ON A REGULAR SLAB, WITHOUT BEING
RAISED DUE TO FLOOD PLAIN REGULATION, THE HEIGHT
CAP WOULD NOT BE BROKEN.

**ACKNOWLEDGMENT OF EXISTING
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 3/8/23

APPLICANT AUSTIN VAUGHAN

SIGNATURE 

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SITE INSPECTION AUTHORIZATION

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: _____

APPLICANT _____

SIGNATURE _____

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE VARIANCE APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. GRANTING OF A VARIANCE IS CONDITIONAL ON MEETING THE FOLLOWING REQUIREMENTS:

FAILURE TO COMPLY WITH THE REQUIREMENTS MAY CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- Complete "Application for Variance"
- Provide plat map of property to which variance applies.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- Provide a legal description of the property to which variance applies.
- Sign/date Submittal Verification form.
- Sign/date Site Inspection Authorization form.
- Sign/date Acknowledgement Form.
- Pay Variance Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording this variance request).
- Applicant agrees to attend the Board of Adjustment Public Hearing.
- I have reviewed the Conditions Required and believe they are met:** (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:

1. That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of the Zoning Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and
2. That such circumstances and conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property.
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest and (c) be injurious to or adversely affect the orderly use of other property within the area;

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

Special Circumstances:

PROPERTY LOCATED WITHIN FLOOD PLAIN AND REQUIRE
THE HOME TO BE RAISED.

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: 3/8/23

APPLICANT AUSTIN VAUGHAN

SIGNATURE 

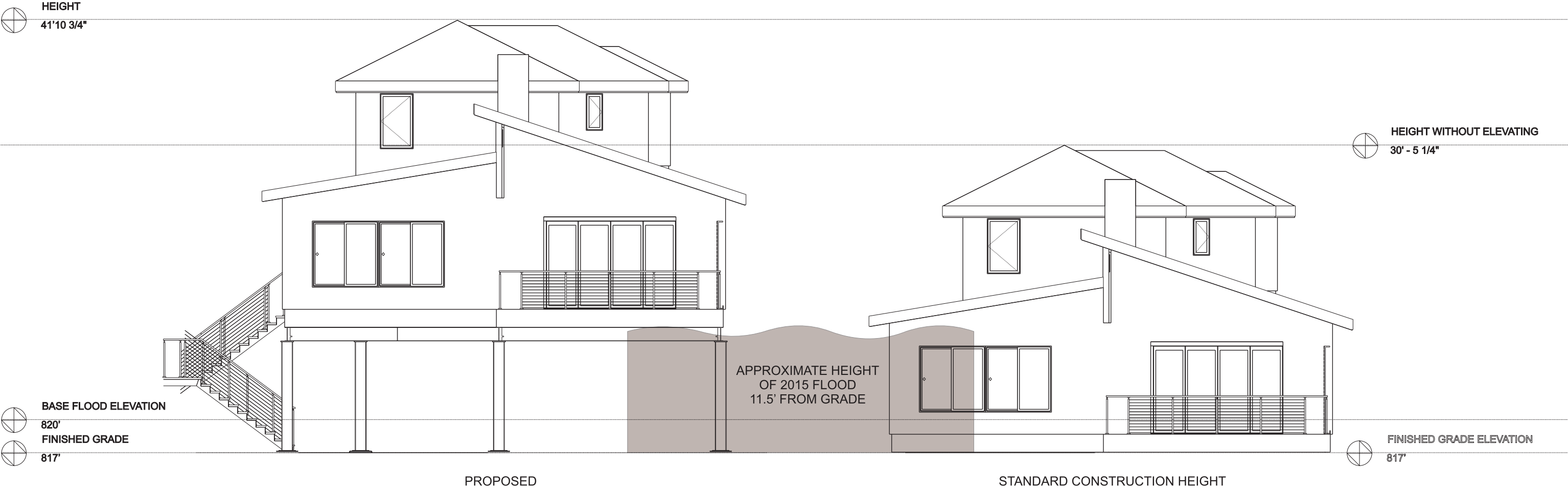
WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

505 River Bend Rd., Wimberley, TX



Variance Request to Exceed Building Height Cap

Request to build above high water mark of 2015 flood.

Height Requested - 41' 10 3/4"

Height Cap - 35'

Difference - 6' 10 3/4"