



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, DECEMBER 4, 2023 - 6:00 PM

AGENDA

1. **CALL TO ORDER** December 4, 2023, at 6:00 PM
2. **CALL OF ROLL**
3. **DISCUSSION AND POSSIBLE ACTION**
 - 3.1. Consider the appointment of a Chairperson to the Board of Adjustment with a term ending June 30, 2024.
 - 3.2. Consider the appointment of a Vice-Chairperson to the Board of Adjustment with a term ending June 30, 2024.
4. **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.
5. **MINUTES**
 - 5.1. Approval of minutes from the September 25th, 2023 meeting of the Board of Adjustment.
6. **PUBLIC HEARING AND POSSIBLE ACTION**
 - 6.1. Hold a public hearing and consider possible action regarding Case No. BA-23-005, a request for a variance from the City of Wimberley code requirements to allow for a deviance in the maximum building height of a deck on a property located at 480 Deer Crossing Ln, Wimberley, Texas.
7. **BOARD MEMBER REPORTS**
 - 7.1. Announcements
 - 7.2. Future Agenda Items
8. **ADJOURNMENT**

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

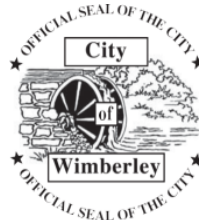
CERTIFICATION

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 Tuesday, November 28, 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 Heller 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, SEPTEMBER 25, 2023 - 6:00 PM

MINUTES

1. CALL TO ORDER

September 25, 2023, at 6:00 PM

Nathan Glaiser, Director of Planning & Public Works, called the Board of Adjustment meeting to order at 6:01 p.m.

2. CALL OF ROLL

Board Members Present:

Jokathryn Quinn
Thomas Gordon
Brain Woodward
Pam Tise
Tim Dodson

Staff Present:

Nathan Glaiser, Director of Planning & Public Works
Alexis Esparza, Permit Coordinator
Lee Simmons, City Attorney

Brain Woodward volunteered to act as chair for this meeting.

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.

No citizen comments this evening.

4. MINUTES

4.1. Approval of minutes from the May 1st, 2023 meeting of the Board of Adjustment.

A motion was made by Board Member Gordon, seconded by Board Member Quinn to approve the May 1, 2023 Board of Adjustment meeting minutes. The motion carried by a vote of 5-0.

5. PUBLIC HEARING AND POSSIBLE ACTION

- 5.1.** Hold a public hearing and consider possible action regarding case BOA-23-003, a request for a variance to allow for commercial expansion and construction of a deck within the Protected Waterway Overlay at a property located at 107 Old Kyle Road, Wimberley, Texas.

Nathan Glaiser, Director of Planning and Public Works, provided a presentation regarding a request for a variance from the City of Wimberley code requirements to allow for commercial expansion and construction of a deck within the protected waterway overlay at property located at 107 Old Kyle Road, Wimberley, Texas. Proper notification was given and one letter of opposition was received.

Russel Whistler, the applicant, spoke in favor of the request and answered questions presented by Board members. The applicant's associates, Michael Creecy and Paul Torrez, answered questions presented by the Board members regarding the proposed business.

Upon completion of discussion, the public hearing was opened at 6:29 p.m.

Those who spoke:

Rob Spaeth, presented a question regarding the proposed deck and use, to which the applicants and Nathan provided a response.

There being no further comment, the public hearing was closed at 6:32 p.m.

The Board discussed and reviewed all six findings of fact and Mr. Glaiser explained they must be met in order to grant the 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 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 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. The consensus from the board is that all the findings of fact are true. Upon completion of discussion,

The consensus from the board is that all the findings of fact are not true. Upon completion of discussion, a motion was made by Board Member Gorgon, seconded by Board Member Quin, that all six findings of fact were not met and that the applicant not be granted the variance. The motion carried unanimously 5-0 and the grant request was denied.

- 5.2.** Hold a public hearing and consider possible action regarding case BOA-23-004, a request for a variance to allow for an encroachment into the dominant street setback of a property located at 2625 River Road, Wimberley, Texas.

Nathan Glaiser, Director of Planning and Public Works, provided a presentation regarding a request for a variance from the City of Wimberley code requirements to allow for an encroachment into the

dominant street setback of a property located at 2625 River Road, Wimberley, Texas.

Eric Lange, the applicant, spoke in favor of the request and answered all questions presented by Board members.

Upon completion of discussion, the public hearing was opened at 7:16 p.m.

Those who spoke:

Rob Spaeth, presented a question to the applicants, to which they responded and proceeded to be in favor of the request.

There being no further comments, the public hearing was closed at 7:23 p.m.

The Board discussed and reviewed all six findings of fact and Mr. Glaiser explained they must be met in order to grant the 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 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 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.

The consensus from the board is that all the findings of fact are true. Upon completion of discussion, a motion was made by Board Member Quinn, seconded by Board Member Tise, that all six findings of fact are met and that the applicant be granted to build 40 ft into the dominant street setback. The motion carried by a vote of 4-1, with Board Member Gordon in opposition.

6. BOARD MEMBER REPORTS

6.1. Announcements

There were no announcements this evening.

6.2. Future Agenda Items

There were no future agenda items.

7. ADJOURNMENT

A motion was made by Board Member Quinn, seconded by Board Member Gordon to adjourn the Board of Adjustment meeting at 7:29 p.m. The motion carried unanimously (5-0).

RECORDED BY:

Board of Adjustment Staff Liaison



APPROVED BY:

Board of Adjustment Chairperson

DRAFT



AGENDA ITEM:	BA-23-005
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	October 24, 2023
MEETING DATE:	December 4, 2023

REPORT

ITEM

The applicant, David Knowles, has requested a variance from the maximum building height for decks (Sec. 9.03.073(d)2d) for a property located at 480 Deer Crossing. Section 9.03.073(d)2d states that the maximum building height for decks shall not be more than 12 feet including a railing only or 18 feet including a roof.

The applicants are seeking to rebuild a previously existing deck to a height of 28 feet. The previously existing deck was an existing non-conforming structure (grandfathered) built before the City incorporated. The structure was completely removed in July of 2023, and no longer retains the grandfathered status.

PROPERTY INFORMATION

Property Description

Applicant(s):	David Knowles
Property Address:	480 Deer Crossing
Property Owner:	Knowles Knest LLC
Legal Description:	River Ledge Lot 17
Property Size:	0.765 acres
Existing Use of Property:	Single-Family Residential
Existing Zoning:	Single-Family Residential 2
Proposed Use of Property:	Residential
Request:	Construction of 28' deck
Planning Area:	I
Overlay District:	Protected Waterway

Surrounding Property:

Frontage:	Deer Crossing Ln
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Surrounding Zoning & Land Use	North of Property	Current Zoning:	Existing Land Use:
	South of Property	R2	Residential
	East of Property	R2	Residential
	West of Property	R1	Residential
		R2	Residential

COMMENTS

Staff has not received any comments from neighboring property owners as of 11/28/2023.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): November 20, 2023
Published Legal Notice (Wimberley View): November 23, 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: _____ FILE NO. _____

HEARING DATE: _____ PLANNING AREA: _____ ZONING: _____

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

City of Wimberley

APPLICATION FOR VARIANCE

OWNER/AGENT INFORMATION

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

Current Mailing

Address: _____ City _____ State _____ Zip _____

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 _____ (Appears on your Tax Statement) Present Zoning: _____

Street Address of Project: _____ Wimberley, Texas 78676

(Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)

Subdivision: _____ Lot: _____ Block: _____ Recorded in Vol. _____ Page _____

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?):_____

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

5. Directions to your Project: _____

Please clearly mark your property so it is easily identifiable.

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

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

**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: _____ APPLICANT _____

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 and unnecessary hardship in the development o 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:

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: _____ APPLICANT _____

SIGNATURE _____

WHEN APPLICABLE:

Date: _____ AGENT _____

SIGNATURE _____

Variance Discussion for 480 Deer Crossing Lane:

Family History:

In September 1958, Betty Padfield married Bill Knowles. Their honeymoon across central Texas included highlights at the Wimberley Blue Hole.



Mom and Dad were a happy couple and soon had 3 sons.

The natural beauty and wonderful community of Wimberley has always held a special place in our family's heart.

As the family matured, the next step in the Wimberley dream came true when Mom and Dad purchased the "wild" property at 480 Deer Crossing Lane in 1975.

David and Linda had their honeymoon on the property in 1980.



Ten Eagle scouts built and used our house and the high deck that provided unparalleled views of the Blanco valley.



Mom and Dad passed in 2016 and 2021. Property passes to 3 sons.
2023 Deck Repair needed - decided to replace with same size and same elevation.
Original deck removed in July 2023.
Siding maintenance and painting completed in August 2023.
Replacement deck construction started and stopped in September 2023.



Decision was made to apply for deck height variance in October 2023.

Variance Application Requirements:

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 and unnecessary hardship in the development of the property.

Discussion: This specific lot was selected by the original owners Bill & Betty Knowles in 1975 because of its view of the Blanco River and surrounding area. The two-story house was completed in ~1982 and was built with a deck above the second story roof to enjoy the panoramic view above the trees of this splendid scenic location. Four generations have already enjoyed the property. The replacement deck will continue to provide the scenic view that made the original owners fall in love with this lot and continue to provide that view to future family generations.

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.

Discussion: Circumstances and conditions are provided by nature, and there are no economic benefits or impacts to properties in the vicinity. The property has never been rented out or otherwise used for income.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

Discussion: The Wimberley area attracts people who value the natural beauty of the Hill Country. Many homes in this area of the Blanco River Valley include decks to enjoy the scenic beauty. The view provided by this lot was a primary reason for its purchase almost 50 years ago. The replacement deck will enable the current and future generations to enjoy and share the natural beauty of the area.

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.

Discussion: There are no adverse affects to public health, safety, welfare, public interest or orderly use of the property.

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

Discussion: The property is in compliance with all other applicable City ordinances, rules and regulations.

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

Discussion: The Wimberley area has offered peace and solace to our family for 4 generations. This replacement deck will continue to connect our family with the area's serenity, and it will be in harmony with other family home decks in the area.

Lot 17 Riverledge Estates

(According to the plat recorded in Vol. 1, Pg. 55
of the Plat Records of Hays County, Texas)

Part of Lot 10
Idlewhile Estates
Sally Wells Pool
Vol. 1200, Pg. 495,
PRHCTx

(N 25°12'00" E, 29.44')
N 23°21'13" E, 29.33'

(N 18°39'00" E, 45.96')
N 16°48'13" E, 45.96'

Lot 11
Idlewhile Estates
Vol. 134, Pg. 491,
DRHCTx

Center of
Blanco River

Approx. River Bank

at 353.47' (353.83')
Found 1" Pipe

Lot 16

(N 73°47'00" W, 440.56')
N 74°20'21" W, 440.57'

Lot 17
0.765 Ac.

at 351.05' (351.21')
Found 1/2" IR w/cap

N 74°20'21" W, 445.58'
(N 73°47'00" W, 445.58')

Lot 18

Legend

Point in Center of Blanco River ○

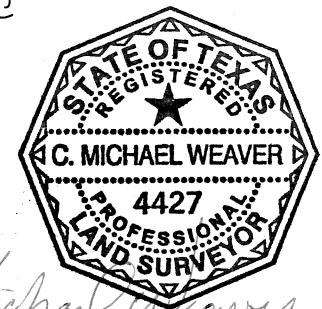
Survey Notes:

1. Survey based on Texas State
Plane Coordinates, South Central
Zone, NAD83 (2011), U.S. Feet,
Vertical Datum NAVD88

Flood Certificate

A portion of the subject property
is located in Zone AE, in a FEMA
designated flood hazard area, per
FIRM map #48209C0355F, dated
9/02/2005.

Power Line
Edge of Asphalt
Water Meter Box
Culvert
Deercrossing Lane
(50' ROW)
N 15°31'58" E, 75.02'
(N 16°13'00" E, 75.00')



C. Michael Weaver, RPLS #4427
I do hereby certify, on this the 6th day of October,
2022, that this survey was performed under my
supervision on the ground, that, to the best of my
knowledge, it is correct and that there are no visible
encroachments, except as shown.

0 30 60
SCALE: 1" = 60'

Weaver Surveying, LLC
TBPLS Firm #10194053
Drawing No. H221003-01A

Notes:

- Record calls in parentheses.
- Survey performed without title commitment; therefore, all encumbrances may not be shown.
- Building setback of 25 feet to exterior line facing Deer Crossing Lane and 5 feet to any interior lot line as set forth in document recorded in Vol. 222, Pg. 521, DRHCTx.
- Public utility easements of 5 feet down sides of lot and 10 feet across back side along Deer Crossing Lane as set forth in document recorded in Vol. 222, Pg. 521, DRHCTx.
- Other easements, restrictions, covenants, conditions, and reservations referenced/recorded in Vol. 1, Pg. 55, PRHCTx, and Vol. 222, Pg. 521, DRHCTx.

Riverledge L17 Master221006.dwg (100622,14:53:38) (1=60)

