

# BZA APPROVAL STANDARDS FOR VARIANCES:

It is important to know on the front end that not all variances receive approval. The variance process is designed for matters of hardship (e.g. a lot that is too small, or a lot that is shaped strangely) rather than convenience. In order to approve a variance request, the Board of Zoning Adjustments must find that the request meets all nine (9) approval standards:

## ANSWERS/EXPLANATIONS IN PINK BY PAUL CABOCHE, LVPOA President

### 1. Special conditions and circumstances exist that are peculiar to the land or structure involved and are not generally applicable to other lands or structures in the same zoning district.

*In other words: Is there something unique about your lot or the building that does not apply to other properties nearby that is driving your variance request (e.g. you have a small or strangely shaped lot, there is environmental contamination, etc.)?*

#### ANSWER: NO

**EXPLANATION:** LAKE VISTA WAS INTENTIONALLY DESIGNED WITH ALL STREETS ENDING IN CUL DE SACS (EXCLUDING THE 4 BOUNDING STREETS). ALL CUL DE SAC LOTS ARE IRREGULAR AND PIE SHAPED GIVING WIDER GROUND FRONTAGE TO LOTS/HOMES THAT EXIST IN THE CUL DE SAC, ESPECIALLY THOSE WHOSE LOTS ARE ON THE OPEN PARK SPACE. THESE CUL DE SAC LOTS ARE ARGUABLY THE MOST DESIRABLE LOTS IN LAKE VISTA. The 102-104 and 106-108 Egret Street LOTS ARE NO DIFFERENT AND THEY ARE NOT EVEN THE SMALLEST LOTS IN THE EGRET CUL DE SAC. LAKE VISTA HAS APPROXIMATELY 200 IRREGULAR, PIE SHAPED LOTS, WHICH IS NEARLY 100% OF ALL LOTS EXISTING IN CUL DE SACS.

### 2. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

*In other words: If you had to comply with the zoning regulation, would you be held to a higher/unfair standard than other properties nearby (e.g. 75% of nearby properties have parking in the front yard, but the law says you cannot have that)?*

#### ANSWER: NO

**EXPLANATION:** CURRENTLY, THE LOTS ARE CONSISTENT WITH ALL ELEVEN SURROUNDING CUL DE SAC LOTS IN THE EGRET STREET CUL DE SAC. AS EGRET STREET IS ZONED S-LRD1, BOTH LOTS (102-104) AND (106-108) ARE ZONED FOR TWO FAMILY HOMES. SEVEN OF THE ELEVEN CUL DE SAC LOTS ON EGRET STREET, INCLUDING 102-104 AND 106-108 CURRENTLY HAVE TWO FAMILY HOMES BUILT ON THEM.

### 3. The special conditions and circumstances do not result from the actions of the applicant or any other person who may have had an interest in the property.

*In other words: Was this special condition or circumstance (see #1) already there when you purchased the property, or was it based on some requirement that you did not have control over (e.g. the lot already measured 25 feet x 45 feet when you bought it so you did not create this tiny lot)?*

#### ANSWER: YES

**EXPLANATION:** NO SPECIAL CONDITIONS EXISTED PRIOR TO THE PURCHASE OF THESE LOTS. THE APPLICANT/OWNER/BUILDER PULLED INFORMATION FROM THE EAST LAKE VISTA BUILDING RESTRICTIONS THAT REQUIRED A MINIMUM GROUND FRONTAGE LARGER THAN THE EXISTING LOTS, HOWEVER, THESE LOTS EXIST IN WEST LAKE VISTA AND THE PROPER WEST LAKE VISTA BUILDING RESTRICTIONS DO NOT HAVE THE SAME MINIMUM GROUND FRONTAGE REQUIREMENT, THUS MAKING ANY CLAIM OF HARDSHIP INACCURATE AND IRRELEVANT TO THESE LOTS. THE APPLICANT/OWNER/BUILDER OBTAINED PROVISIONAL APPROVAL BY THE CPC BOARD TO RE-SUBDIVIDE THESE LOTS, WHICH THEN CREATED A NEED FOR THE APPLICANT/OWNER/BUILDER TO REQUEST VARIANCES TO CREATE SMALLER, MORE IRREGULAR LOTS THAN CURRENTLY EXIST IN LAKE VISTA STRICTLY FOR THE PURPOSES OF BUILDING AND ULTIMATELY SELLING THE PROPOSED BUILDINGS FOR PROFIT.

**4. Granting the variance requested will not confer on the applicant any special privilege which is denied by this Ordinance to other lands or structures in the same district or similarly situated.**

*In other words: If the variance is approved, would you be treated as special when your neighbors are forced to follow the law (e.g. would you be the only person in your area with front yard parking)?*

**ANSWER: YES**

**EXPLANATION:** PER SECTION VII OF THE WEST LAKE VISTA COVENANTS/BUILDING RESTRICTIONS, WHICH HAVE NEVER BEEN MODIFIED, HAS PREVENTED ALL OTHER PROPERTY OWNERS FROM SUBDIVIDING LOTS AND/OR CREATING LOTS WITH LESS THAN 30' OF GROUND FRONTAGE.

**SECTION VII: GROUND FRONTAGE REQUIRED**

No residence shall be built on less than one lot as shown on Official Map of "Lake Vista"; except, however, that when any purchaser wishes to buy more than one lot site in order to erect a larger permitted residential building, this may be done provided that said two or more lots are treated as one and **the restrictions applying to a single lot are adhered to and no re-subdivision of lots shall be done which would leave remaining on the square a lot of an area or width below the average standard for said square as indicated on the Official Map of "Lake Vista". No lot shall be shifted as to frontage. No lot shall be re-numbered. No lot shall be re-subdivided for private sale or other purposes unless first approved by the Levee Board** (Currently the Lakefront Management Authority (LMA).

**5. The variance, if granted, will not alter the essential character of the locality.**

*In other words: Is this out of character for the area (e.g. a building height request that is twice what is normally allowed)?*

**ANSWER: YES**

**EXPLANATION:** LAKE VISTA HAS VERY FEW, IF ANY, SINGLE LOTS THAT ARE LESS THAN 50FT. IF 4 CONSECUTIVE SINGLE LOTS WERE CREATED BELOW 30FT, THESE WOULD BECOME THE MOST NARROW AND IRREGULAR SHAPED LOTS IN LAKE VISTA. THIS WOULD CREATE AN AESTHETIC THAT SIMPLY DOES NOT FIT THE CHARACTER OF LAKE VISTA AND ITS HISTORIC ORIGINAL DESIGN AS THE SECOND "GARDEN CITY" CREATED IN ENTIRE UNITED STATES. WHILE THIS MAY NOT MAKE VISUAL IMPAIRMENTS TO THE SURROUNDING AREA AT THIS TIME, IT OPENS THE DOOR FOR THE PROPOSED STRUCTURES TO BE REPLACED IN THE FUTURE, LEAVING SEPARATELY OWNED, HIGHLY IRREGULAR SKINNY LOTS THAT MAY HAVE SEPARATED SINGLE BUILDING STRUCTURES, WHICH WOULD DEFINITELY IMPACT THE AESTHETIC AND CHARACTER OF THE AREA.

**6. Strict adherence to the regulation by the property would result in a demonstrable hardship upon the owner, as distinguished from mere inconvenience.**

*In other words: If the variance is denied, would you experience a severe, non-financial hardship (e.g. if you have a tiny lot 25 feet x 45 feet and need to provide a rear yard of 9 feet, the denial of this variance would limit you to an unreasonably small house that essentially makes the lot undevelopable)?*

**ANSWER: NO**

**EXPLANATION:** The proposed structure can easily be built on the current un-subdivided lots that currently have two family homes already existing on each lot. According to conversations with the Owner/Builder and also with representatives of the CPC and BZA, it is clearly understood by all that the intentions of the owner are rooted solely in his desire to create separated lots for ease of selling the re-subdivided lots to two separate buyers vs. requiring that one entity/buyer purchase the entire two family structure. This is purely about ease of sale and profits. However, it is my interpretation as well as the opinions of representatives I have had conversations with from the CPC and BZA, that this creates a much more complicated path to building and selling the proposed buildings individually that would likely require further variance requests and possibly the creation of a condo association in order to accomplish this. (This cannot be determined without submitting a complete set of construction plans to the Lakefront Management Authority (LMA) to be reviewed by architects who would deem these proposed developments to be compliant or non-compliant with Lake Vista's covenants/building restrictions in terms of required maximum lot coverage and setbacks.)

**7. The request for the variance is not based primarily upon a desire to serve the convenience or profit of the property owner or other interested party(s).**

*In other words: Are you requesting the variance just for your convenience (e.g. you want a parking area for two cars side-by-side when you may be able to park them one beyond the other)?*

**ANSWER: YES**

**EXPLANATION:** The Applicant/Owner/Builder have communicated to myself and others, including representatives within the CPC and BZA that his primary goal is to be able to sell re-subdivided lots with a two family home separately to two different buyers, which he interprets as an easier way to sell them. This is, 100%, purely about convenience and profit.

**8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

*In other words: Would this be harmful to your neighbors or others in some way, or would it negatively impact another nearby property (e.g. would this create a condition where your gutters drain onto your neighbor's property)?*

**ANSWER: TBD**

**EXPLANATION:** This cannot be determined without submitting a complete set of construction plans to the Lakefront Management Authority (LMA) to be reviewed by architects who would deem these proposed developments to be compliant or non-compliant with Lake Vista's covenants/building restrictions in terms of required maximum lot coverage and setbacks and more specific information than has been provided currently.

**9. The proposed variance will not impair an adequate supply of light and air to adjacent property, increase substantially the congestion in the public street, increase the danger of fire, or endanger the public safety.**

*In other words: Would the variance restrict light and air to your neighbors (e.g. would the variance allow you to build an extremely tall house or one that is built on the property line you share with a neighbor), would it cause a substantial increase in street parking or cause a great number of customers to travel to the area (e.g. a school that needs to provide 100 parking spaces and is providing 0), would it make it more difficult for the fire department or EMS to access a property during a fire/emergency (e.g. the side yard/alley is only 1 foot wide when 3 feet is required), or would it endanger your neighbors or others in any other way?*

**ANSWER: YES**

**EXPLANATION:** While no official construction plans have been submitted or made available which show if adequate off street parking is intended, it is certainly the intention of the applicant/owner/builder to build one two family home that would span two separate/re-subdivided lots, leaving zero accessible space between the lots, which are intended to be sold to separate purchasers/owners. NOTE: Currently, with 57 Total homes, Egret street has the largest concentration of homes in all of Lake Vista. There are only two other streets in Lake Vista that have more than 40 homes per street. (Dove Street has 41 Homes and Allen Toussaint Blvd. has 40 homes in Lake Vista). According to residents of Egret Street, street parking congestion is a problem in the cul de sacs as it has a majority of two family homes.