



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, March 18, 2020 at 6:30 PM

Notice is hereby given that the Zoning and Planning Commission (ZAPCO) of the City of West Lake Hills, Texas, will hold a Regular Meeting on the 18th day of March 2020 at 6:30 p.m., in the Council Chamber, Municipal Building, 911 Westlake Drive, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

1. Call to Order. Chairman Robert Meisel.
2. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.
 - a. Approval of the February 19, 2020 Regular Meeting Minutes
3. Land Use 311 Westhaven Drive: Discussion/recommendation of a variance request for proposed rear structures (additional conditioned space and deck/staircase) to encroach the side setback. (Owners John and Chrissy Trapp/Applicant Jim Odom).
 - a. Staff Briefing
 - b. Presentation by applicant
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and Action
4. Ordinance Discussion/recommendation of City of West Lake Hills Code amendments to Chapter 22: Building Regulations, Article 22.03, Construction Code, Division 1, Generally and Division 8, Dimensional Regulations for changes related to the Railroad Commission of Texas Liquefied Petroleum Gas Safety Rules regulating the location and placement of propane tanks.
 - a. Staff Briefing
 - b. Public Hearing: All persons wishing to speak for or against shall be heard.
 - c. Deliberation and Action
5. Adjournment. Chairman Robert Meisel.

Robert Meisel, Chairman
By Anjali Naini, Director of Building &
Development Services

Certificate

I certify that the above Notice of the March 18, 2020 Regular Zoning & Planning Commission Meeting was posted on the bulletin board at the Municipal Building, 911 Westlake Drive, West Lake Hills, Texas on Friday, March 13, 2020 at 5:00 pm. and will remain posted continuously until said meeting is convened.

By Anjali Naini, Director of Building &
Development Services

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodations and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. ZAPCO reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, February 19, 2020 at 6:30 PM

PRESENT: ZAPCO Chairman Robert Meisel, Vice-Chair James Pledger, Commissioners Laurie Maccini, Bill Vandersteel, and James Vaughan.

ABSENT: Commissioner Bill Harwell

1. Call to Order. Chairman Robert Meisel.

Chairman Meisel calls the meeting to Order at 6:30 p.m.

2. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

- a. Approval of the January 15, 2020 Meeting Minutes.

Commissioner Vaughan moves to approve the minutes. Commissioner Maccini seconds.

3. Land Use 101 Double Fork Road: Discussion/recommendation of a variance request for a building encroachment into a front setback in order to construct a second floor addition on top of an existing structure that encroaches into the front setback. (Section 22.03.281 of the West Lake Hills Code of Ordinances). Owners/Applicants Denise & Anthony Burke.

- a. Staff Briefing

City Planner Anjali Naini reads her Staff Report in detail. Staff Recommendation: Approval.

- b. Presentation by applicant

Denise Burke is the property owner and is present. We can't build out because of the flood zone. We can only build over the garage because of the slope. This is our only option to stay here.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

Colleen Galvan lives at 504 Yaupon Valley Road. Some of the lots are non-conforming. They could probably move it back a little bit. I don't think it's the best look. I'm against them pushing further into the front setback.

Ghislaine DeRegge lives at 510 Yaupon Valley. My lot faces Double Fork Road. I'm

concerned it would affect our view. What are the limitations or expectations?

City Planner Naini: Height is measured from natural ground grade and 30' is the maximum.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and Action

Chairman Meisel: The measurement is from the ground.

Commissioner Vandersteel: The house was built in 1974?

Colleen: The setbacks have been the same for the past 25 years.

Chairman Meisel moves to recommend approval with the condition that the new roof eave cannot extend past the existing roof eave. Vice-Chairman Pledger seconds. Approved unanimously by a vote of 4 – 0.

- 4. Adjournment. Chairman Robert Meisel.

Chairman Meisel moves to adjourn the meeting at 6:55 p.m.



SETBACK ENCOACHMENT VARIANCE STAFF REPORT

MARCH 18, 2020

Project Name: 311 Westhaven Drive Setback Encroachment Variance Request

Requested Action: Build a rear structure that encroaches the side setback between the 15ft and 20ft setback lines

Agenda Item: Land Use: **311 Westhaven Drive:** A variance request for the construction of new conditioned space and outdoor staircase addition to an existing structure that encroaches into the 20' side setback. Owners John and Chrissy Trapp.

Applicant Information: John and Chrissy Trapp (owners)

Hearing Dates:

March 18, 2020 ZAPCO

April 8, 2020 Board of Adjustment

Location: The subject property is located west of Westlake Drive, east of Buckeye Trail, and north of West Spring Drive.

Zoning & Site Characteristics:

The subject property and surrounding neighborhood are zoned R-1 – One-Family Residential. The property is approximately 0.3356 acre. There is currently an existing house on the property.

Background & Analysis:

The homeowners submitted a building permit application for the rebuilding of the rear deck and addition of conditioned space (12ft x 12ft) to the existing home. Per the City Code, the setback for two-story structures on lots less than 0.375 acre is 20ft, and for a one-story structure (no more than 16ft tall) the side setback is 15ft. The existing home is two-story and currently encroaches the side setback by approximately four (4) feet, located 16ft from the property line. The existing elevated deck is directly behind the house and also encroaches into the side setback.

The proposed building addition at the rear of the house would be keeping the same building line as the existing house and will be located in the same place as the existing rear deck. The existing deck runs the entire width of the house at the back. The homeowners state that the deck is in poor shape and would like to rebuild it. A portion of the existing deck also encroaches into the side setback and the homeowners would like to rebuild it in the same location.

The homeowners state in the variance application– “As a Minister and Christian Counselor with five children, we are frequently hosting fellowships and youth activities at the house.” Furthermore, they decided adding a third floor to the house was not a feasible option and the proposed location of the new room is the best solution.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
The application states – “The family requires some extended living space for fellowship and youth ministry and an extension of the home on the main level of the house is highly desirable. The existing deck is unsafe and a safety concern.”
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
The application states – “Maintaining the natural terrain is one of the best reasons for building the deck and room extensions elevated above grade.”
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
The application states – “The family has grown and need more space for social gatherings. The property is sloped such that the main living area is elevated. The house cannot go up or to either side. The only way to remodel the property is to the rear. It only makes sense to do this at the main living area.”
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
The application states – “The house is situated on the property such that the southwest side of the house sits on the 15’ setback. The main level of the house which is 8’ above grade actually violates the 20’ setback as defined by City Ordinance Sec. 22.03.281 (e) and (f).”
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.
The application states – “The house, as it is, violates the setback requirements, as well as the current deck.”
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.
The application states – “The proposed addition is an enclosed conditioned space just like the home and will be constructed in line with the southwest wall of the house. The neighboring property has no issue with the proximity of the house to the

property line and the extension is no different. The existing open deck actually interferes more because it is open and 13' above grade."

Traffic/Transportation

No impact on traffic is expected.

Lighting

Outdoor lighting is not proposed for this project.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

The existing and future land use comply with the Master Plan.

Staff Recommendation

Staff recommends approval of the requested variance.

Code Analysis:

Sec. 22.03.275 Building setback distances

(a) (1) No principal building shall have any front, side or rear setback distance less than that shown on the schedule of regulations as being required in the district in which the building is located, except that the minimum setback distance from Bee Cave Road shall be 50 feet regardless of which direction the building is facing. The setback distance from the Capital of Texas Highway shall be a minimum of 75 feet.

(2) Unroofed steps and ramps shall not be considered as part of the principal building when measuring the setback distance of such building.

(3) Buildings, including overhangs and eaves, shall not encroach into setbacks.

(Ordinance 211, sec. 6, adopted 1/26/11)

(b) Yards are the open areas between building setback lines and lot lines. Structures shall not be permitted in yards except as otherwise provided herein.

(1) Front yards. Front yards extend the full width of the lot. Their depth is measured from the edge of the right-of-way line of the street to the minimum front setback line.

(2) Rear yards. Rear yards extend the full width of the lot. Their depth is measured from the rear lot line to the minimum rear setback line.

(3) Side yards. Side yards extend from the front yard to the rear yard. Their depth is measured from the side lot line to the nearest minimum side setback line.

(c) In the case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.

(Ordinance 152, att. A, adopted 4/29/09)

Sec. 22.03.276 Setbacks for accessory structures

The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes, and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in section 22.03.281. Accessory structures, including overhangs and eaves, shall not encroach into setbacks.

Sec. 22.03.281 Schedule of regulations

(a) Where the slope gradient exceeds 25 percent nonresidential development is not permitted.

(b) Dimensional regulations for listed zoning districts:

Dimensional Minimums of Lots									
Dimension/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Acreage (acres) (A)	1	1	2	1.5	2	1.5	2	20	30
Depth (feet)	150	150	400	200	200	200	200	500	(C)
Width (feet) (B)	150	150	400	150	150	150	150	500	(C)

(1996 Code, sec. 14-295)

Minimum Building Setback Distance in Feet From Front Lot Line									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	50	50	50	50	50	50	50	(IV)(a)	(C)
Less than .5 acres	30	30	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Rear Lot Line									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	30	30	50	40	40	40	40	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	25	25	N/A	30	30	30	30	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Side Lot Lines									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1

Greater than or equal to .5 acre	25	25	50	(I)	(I)	(I)	(I)	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	20	20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Maximum Impervious Cover in Percent of Lot Area									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25%	25%	25%	(IX)	(III)	(III)	(III)	(V)	(C)
Less than .5 acres, greater than or equal to .2 acres	*, †	*, †	25%	(IX)	(III)	(III)	(III)	(V)	(C)

* The following formula applies:

$P = (\text{size of acre expressed as a whole number and decimal}) \times (.5) - (.5)$

Example:

$P = (.25 \text{ acres}) (.5) - .5$

$P = (.125) - .5 = -.375\%$

$P = 37.5\%$ allowable impervious cover for a .25 acre lot

† In order to receive and increase in allowable impervious cover over 25%, the property must be connected to the city's wastewater service.

(A) Land donated/dedicated to and accepted by the city shall be credited to the area of the lot/tract from which the donated land originated.

(B) For residential lots on culs-de-sac, the minimum lot width at the front street property line shall be 33 feet measured along the chord of the arc.

(C) See section 38.03.040 et seq.

(D) Residential 30 feet; nonresidential 37 feet.

(E) No portion of the structure in an extended setback shall be taller than 16' above natural grade.

(F) If the proposed building is a one-story structure, the lesser setback distance applies. If any portion of the building is a two-story structure, the greater setback distance applies.

Sec. 22.03.514 Criteria required for granting variance

No variance shall be granted under this chapter unless the following criteria are fulfilled:

(1) Findings. The applicant has established by competent evidence that:

(A) The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.

(B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.

(C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.

(D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

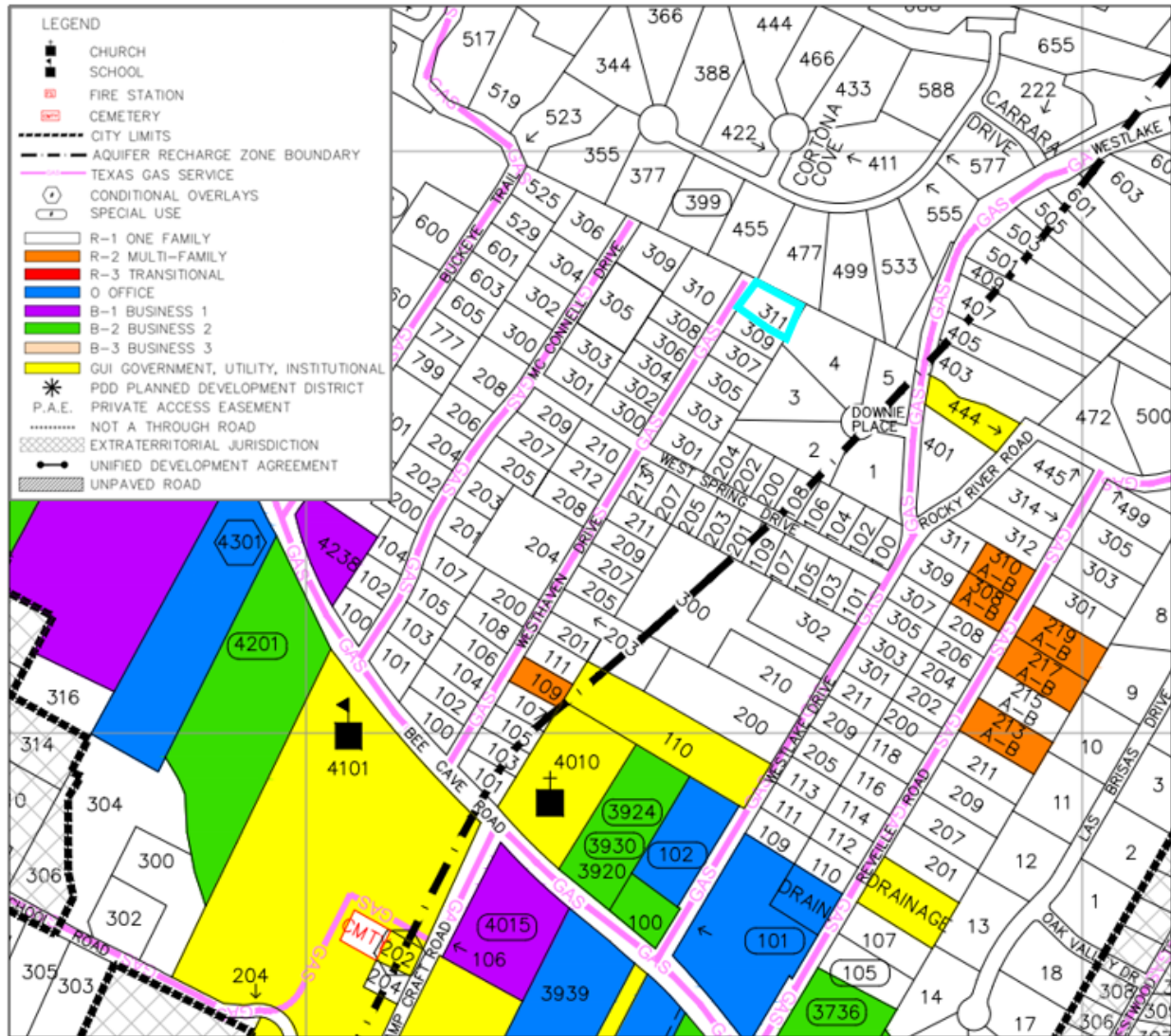
(2) ZAPCO. The recommendation of zoning and planning commission shall include an analysis of whether:

- (A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and
 - (B) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof; and
 - (C) When considering variance requests for nonresidential projects in the Commercial Overlay District, whether the variance, when considered as part of the proposed project (as a whole), furthers achievement of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.
- (3) Conditions. The city council can impose, and the zoning and planning commission can recommend imposition of, reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects in the Commercial Overlay District are necessary to achieve one or more of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.

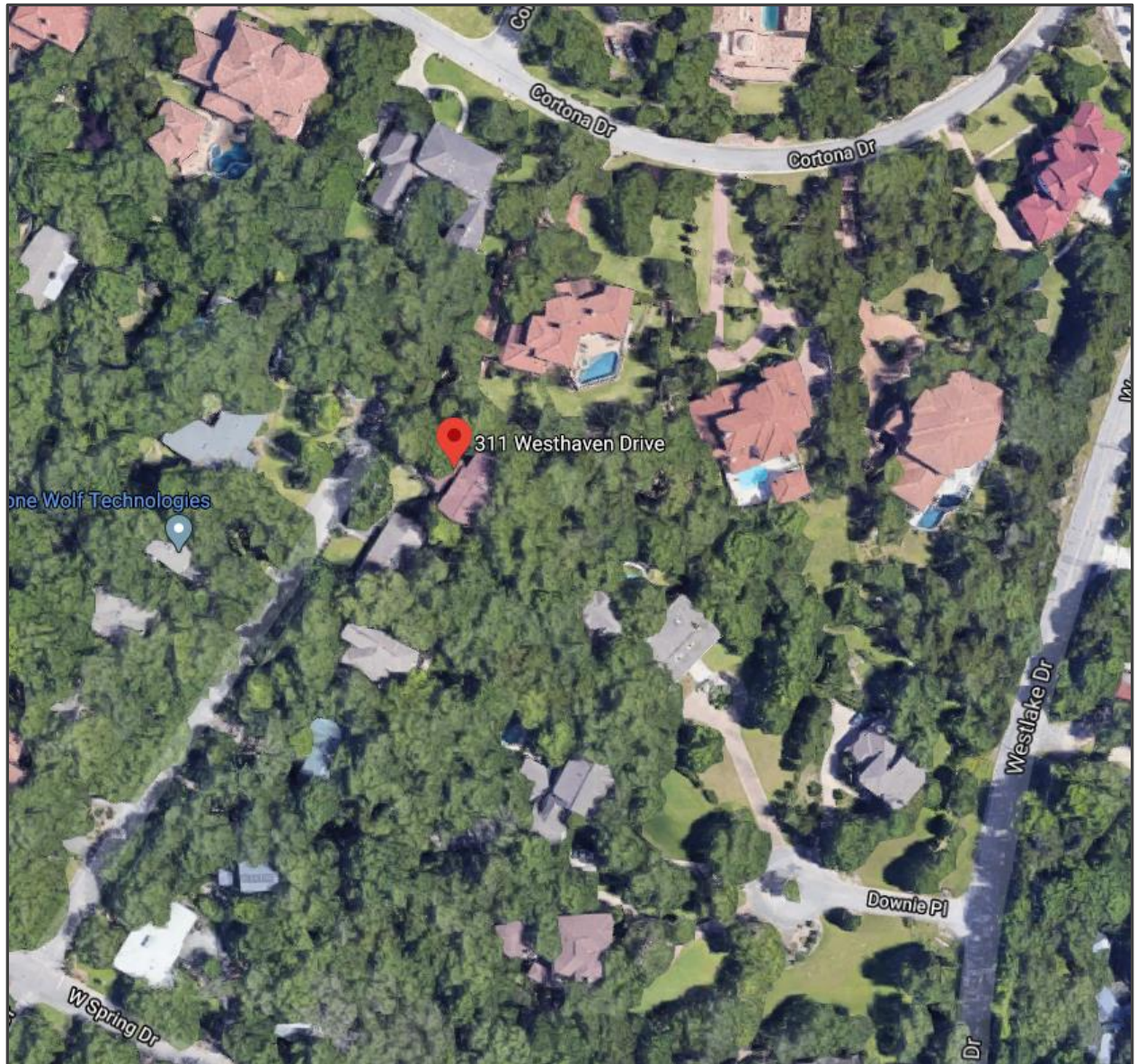
(Ordinance 137, att. A, adopted 9/15/08)

(Maps to follow)

Zoning:



Aerial:



APPLICATION COVER SHEET

Property Address: 311 Westhaven Dr, Westlake Hills, TX 78746
Applicant Name: John and Chrissy Trapp
Designated Agent (if any, Power of Attorney Required): Archadeck of Austin
Applicant Phone Number: 512.657.8926 Email Address: [REDACTED]
Date Application was Submitted: February 12, 2020 with regard to permit application #15343
Variance(s) Requested: Proposed rear structure encroaching side setback between 15' and 20'

Applicant completes above section; City Staff completes the section below:

Variance File Number: _____ [A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]

Application Fees Due: \$ _____ ☐ Fees Received on _____ by _____

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on _____ by _____
☐ Letter to ZAPCO Chairperson ☐ Variance Approval Criteria Answers
☐ Site Plan Coversheet ☐ Site Plan Drawings
☐ Elevation Views and Floor Plans (new structures only)
☐ Septic Assessment (new structures only)
☐ Additional Support Materials (if any): _____
☐ Power of Attorney (if any) – Designated Representative: _____
Staff Analysis completed on _____ by _____
Staff Analysis sent to Applicant on _____ by _____

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on _____ by _____
Notice to Proceed Letter sent to Applicant on _____ by _____
• Notification Letter must be postmarked by _____ ☐ Confirmed by _____
• Sign must be posted by _____ ☐ Confirmed by _____
15 Copies of Final Packet received on _____ ☐ Confirmed by _____

ZAPCO

Scheduled for ZAPCO Hearing on: _____
ZAPCO Action Letter sent on _____ by _____
ZAPCO Recommendation: _____
Conditions/Comments (if any): _____
Modified application and materials (if any) received on _____ by _____

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on: _____
BOA/Council Action: _____
Conditions/Comments (if any): _____
BOA/Council Action Letter sent on _____ by _____

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.): _____
• Notifications added to Incode on _____ by _____

Postponement History (if any): _____
Notes: _____

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February 12, 2020

Chairman Robert Meisel
West Lake Hill Zoning and Planning Commission
911 Westlake Hills Dr
West Lake Hills, TX 78746
Regarding: 311 Westhaven Dr Permit Application-Permit No. 15343

On behalf of the Trapp family, we are requesting a variance request. The variance is to the side setback requirements as documented in Sec. 22.03.281 specifically notes (E) and (F), which stipulates a 15' side set back for a single story and 20' side setback for structures taller than 16'.

The proposed structure as shown in Attachment I is 19'8" above grade (grade to soffit) and 17'6" ft above the existing patio level. The structure is 16 ft from the property line.
The existing house is a 2 story house and is also 16 ft from the property line and encroaches the 20 ft criteria for a structure over 16' tall.

Our house is a two-story wood/stone framed home and is 2755 SF with a wood deck in poor shape extending the width of the house. We have proposed rebuilding the deck and adding a 12x12 conditioned space on the Main level 19'8" above natural grade as measured to the soffit. The southwest wall of the proposed structure in a direct extension of the existing southwest wall of the house. The existing southwest wall of the house also encroaches on the 20' set back for structures >16' as it sits 16' from the property line. See Attachment II-survey and Attachment III photos of this side of property

As a Minister and Christian Counselor with five children, we are frequently hosting fellowships and youth activities at the house. We really need place to congregate on the main level of the house which is heated and cooled. We are kind of restricted where to add on this property. A third floor is not a good option. The width is restricted by the 15 ft setback on both sides of the property and are at the peak of impervious coverage. Adding this room is the only logical solution.

The original plan also includes a landing and stairs from the room to grade. The landing and stairs also encroach the 15ft set back. First, and most importantly, we would like the variance to encroach the 20ft setback for the room. If possible, we would also like the stairs which encroach the 15 ft set back only as a point of egress from the room to the yard.

Thank you in advance for your consideration

John and Crissy Trapp

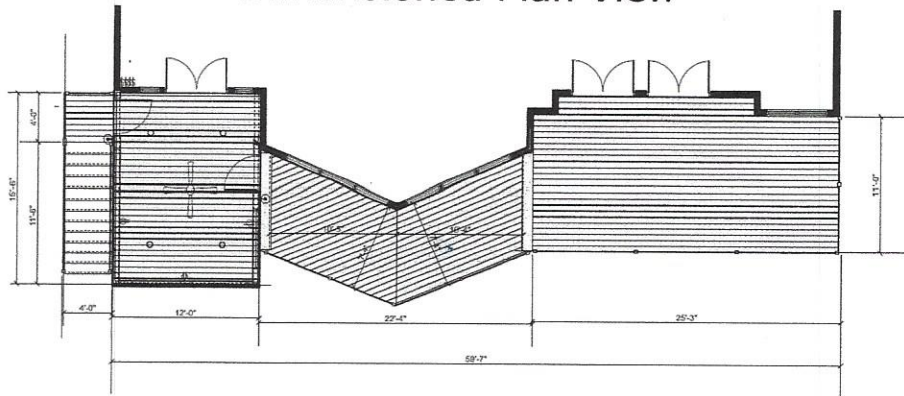
Jimmy Odom (for the Trapp's)
President/Owner
Archadeck of Austin
402A W Palm Valley Blvd #309
Round Rock, TX 78664

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EXISTING PHOTO #2

Dimensioned Plan View



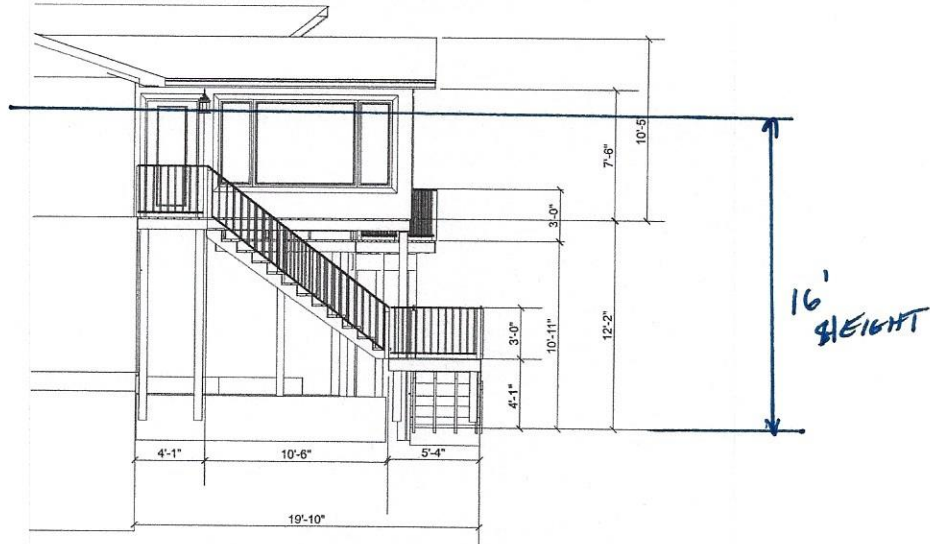
Dimensioned Main Elevation



Dimensioned Side Elevation

15' SIDE SB

20' SIDE SB



ANSWERS TO VARIANCE APPROVAL CRITERIA QUESTIONS

West Lake Hills City Code requires applicants to answer each of the following questions. The ZAPCO Commissioners, Board of Adjustment and City Council Members consider your answers to these questions when evaluating your application. *(Feel free to respond to these questions on a separate page or document.)*

- (1) Describe in detail any special conditions you believe will result in unnecessary hardship to you if the terms of this ordinance are strictly or literally enforced.

The Trapp family is very active in religious affairs. John Trapp is a Minister and one of the principals at the RUF (Reformed University Fellowship) at the University of Texas. Chrissy Trapp is a Christian Counselor. The Trapp's also have 5 children. The family requires some extended living space for fellowship and youth ministry and an extension of the home on the main level of the house is highly desirable. The existing deck is unsafe and a safety concern. Time is of essence.

- (2) Why do you think the natural terrain and existing flora will not be unreasonably disrupted or destroyed in the variance you are requesting is granted?
Maintaining the natural terrain is one of the best reasons for building the deck and room extension elevated above grade.

- (3) What other reasonable alternatives have you considered? Why won't these other options alleviate the difficulty or hardship that you think exists?

The Trapps love living in Westlake Hills. The family has grown and need more space for social gatherings. The property is sloped such that the main living area is elevated. The house can not go up or to either side. The only way to remodel the property is to the rear. It only makes sense to do this at the main living area.

- (4) Why do you believe the variance you are requesting is the minimum required to alleviate the difficulty or hardship you think exists?

The house is situated on the property such that the southwest side of the house sits on the 15' setback the main level of the house which is 8' above grade actually violate the 20' set back as defined by City Ordinance Sec. 22.03.281 (E) and (F)

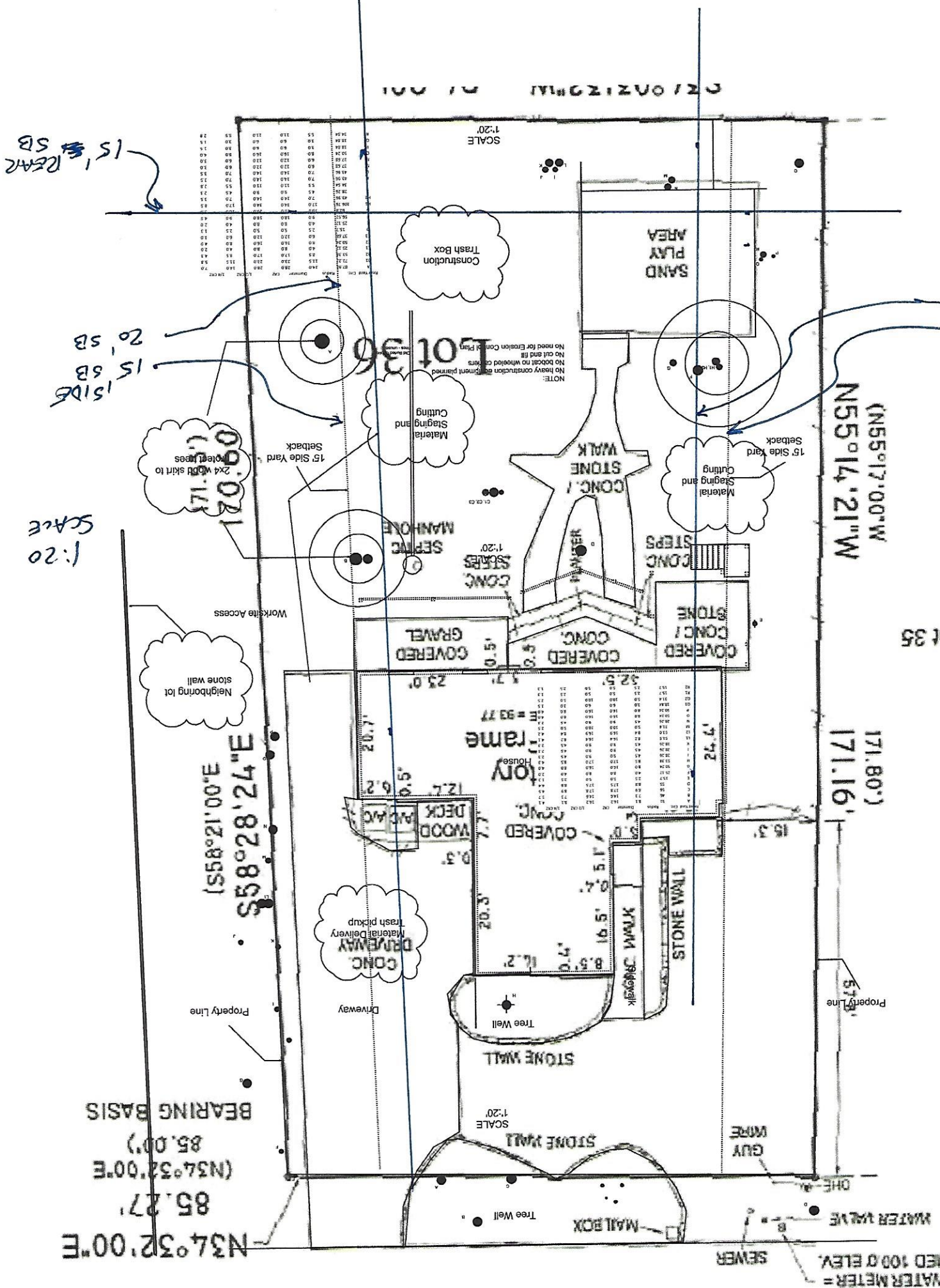
- (5) Why do you believe your variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan?

The house, as it is, violates the setback requirements, as well as the current deck.

- (6) Why do you believe your variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners?

The proposed addition is an enclosed conditioned space just like the home and will be constructed in line with the southwest wall of the house. The neighboring property has had no issue with the proximity of the house to the property line and the extension is no different. The existing open deck actually interferes more because it is open and 13' above grade.

Property Address: 311 Westhaven Dr.





SPECIAL POWER OF ATTORNEY FORM

KNOW ALL PERSONS BY THIS DOCUMENT that I, Christine Trapp
have made, constituted and appointed Archadeek of Austin- Jim Odom
to be my duly authorized representative in connection with an application dated 2/12/20,
to be heard by the Building Design Committee, Zoning & Planning Commission, and City
Council/Board of Adjustment of the City of West Lake Hills, Texas. All representations, whether
oral or written, made by the representative in support of the request have the full force and effect
of the applicant's approval. I do by this document constitute the above named representative as
my true and lawful attorney-in-fact to act in my name, place and stead, to do and perform any act
in connection with such application which I myself might perform or do if I was personally present.

Christine (Chrissy) Trapp
Property Owner/Applicant Name

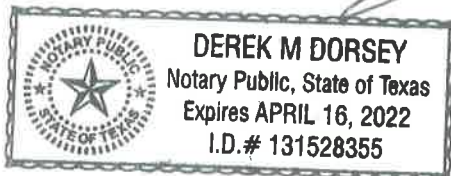
Chris
Property Owner/Applicant Signature

311 Westhaven Dr. West Lake Hills, TX 78746
Street Address City State Zip Code

(512) 657-8926
Property Owner/Applicant Phone Number

This instrument was acknowledged before me on this the 12th day of Feb., 2020.

Derek M Dorsey
Notary Public in and for the State of Texas





NOTICE TO NEIGHBORS OF VARIANCE REQUESTS

DATE OF NOTICE: February 12, 2020

Greetings. You are hereby notified that **John and Chrissy Trapp**, the recorded owners of a property located at **311 Westhaven Drive** in the City of West Lake Hills, Texas have filed an Application with the City of West Lake Hills, Texas requesting variances according to the following Sections of the City's Code of Ordinances:

- **Section 22.03.281 – Structures encroachment in a side setback.**

The request is so that the property owners may: **Add conditioned space and stairs over an existing structure that encroaches the 20' side setback.**

The Application may be inspected at West Lake Hills City Hall, 911 Westlake Drive, West Lake Hills, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. This application is scheduled to be considered at a public hearing held by the Zoning and Planning Commission on **March 18, 2020** at **6:30** p.m. and the City Council/Board of Adjustment on **April 8, 2020** at **7:00** p.m. at West Lake Hills City Hall, located at 911 Westlake Drive, West Lake Hills, Texas. There shall include an opportunity for all interested persons to be heard. Please call City Hall at 512-327-3628 or email planner@westlakehills.org if you have any questions.

Mark Littrell, Zoning & Planning Secretary



CODE AMENDMENTS STAFF REPORT

MARCH 18, 2020

Project Name: Code Amendments – Chapter 22, Article 22.03, Division 1 and Division 8
(Propane Tank Setback Regulation)

Hearing Dates:

March 18, 2020	Zoning and Planning Commission
March 25, 2020	City Council

Background/Analysis:

The City's current building setback regulations can be found in Chapter 22 – Building Regulations in the West Lake Hills Code of Ordinances. The City regulates where structures that are integral to and incidental to the permitted structure can be placed in the setback. Propane tanks are considered an accessory structure. Setback regulations apply to accessory structures unless exempted.

However, Texas Natural Resources Code Section 113.054 provides that Railroad Commission ("RRC") rules and standards preempt and supersede any ordinance, order, or rule adopted by the City relating to any aspect or phase of the liquefied petroleum gas industry. In KP-0086, the Texas Attorney General opined that Section 113.054 preempted any existing local ordinance regardless of its level of restriction, date of enactment, and even if the RRC had not yet adopted a rule or standard governing the aspect or phase of the LPG industry regulated by the ordinance.

Therefore, the proposed amendments clarify that propane tanks are not considered accessory structures for setback purposes and are required to comply with the Liquefied Petroleum Gas Safety Rules adopted by the RRC.

Specifically, the ordinance amends Section 22.03.001 (Definitions) to exclude propane tanks from the definition of accessory structure. Further, the ordinance amends Section 22.03.276 (Setback for accessory structures) to provide that propane tanks are required to comply with the Liquefied Petroleum Gas Safety Rules adopted by the RRC, as amended.

Staff Recommendation

Staff recommends approval of the proposed Code amendments.

BUILDING REGULATIONS AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST LAKE HILLS, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 22: BUILDING REGULATIONS, ARTICLE 22.03, CONSTRUCTION CODE, DIVISION 1, GENERALLY, AND DIVISION 8, DIMENSIONAL REGULATIONS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance, rule, or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the Railroad Commission of Texas has adopted Liquified Petroleum Gas Safety Rules that regulate location and placement of propane tanks on a property; and

WHEREAS, the Building Regulations shall be updated to ensure clarity and compliance with the Railroad Commission of Texas's requirements regarding propane tanks; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the West Lake Hills Zoning and Planning Commission on **March 18, 2020** to consider the proposed amendments and the Zoning and Planning Commission recommended approval of the proposed amendments; and

WHEREAS, after public hearing held by the City Council on **March 25, 2020** the City Council voted to accept the recommendation of the Zoning and Planning Commission; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of West Lake Hills to adopt an ordinance amending Chapter 22: Building Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST LAKE HILLS, TEXAS, THAT:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 22: Building Regulations, Division 1, Generally, and Division 8, Dimensional Regulations, of the West Lake Hills Code of Ordinances are hereby amended to read in accordance with *Attachment "A"* which is attached hereto and incorporated into this Ordinance and the City Code for all intents and purposes. Underlined text shall be added and struck-through text shall be deleted as indicated in *Attachment "A"*.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the ____ day of _____, 2020, by a vote of ____ (ayes) to ____ (nays) to ____ (abstentions) of the City Council of West Lake Hills, Texas.

CITY OF WEST LAKE HILLS:

by: _____
Linda Anthony, Mayor

ATTEST:

Stephanie Mills, City Secretary

City of West Lake Hills
CODE OF ORDINANCES
TITLE II: BUILDING AND DEVELOPMENT
CHAPTER 22: BUILDING REGULATION
ARTICLE 22.03 – CONSTRUCTION CODE
DIVISION 1 – GENERALLY &
DIVISION 8 – DIMENSIONAL REGULATIONS

Section 22.03.001 Definitions

Accessory building or accessory structure. A building or structure, the activity or function of which is clearly integral to, or customarily incidental and subordinate to, the permitted use of the main or principal building/structure on the same lot, such as an air-conditioning and heating unit; cabana; carport; domestic quarters; a wall used as a front-yard fence; garage; greenhouse; guesthouse; sports court; swimming pool; tool shed; wood shed; workshop; and the like. This definition does not include propane tanks. (See also the definition of structure in this section).

* * *

Section 22.03.276 Setbacks for accessory structures

The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes, and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in section 22.03.281. Accessory structures, including overhangs and eaves, shall not encroach into setbacks. Propane tanks shall not be required to meet the setback requirements of this Section so long as they are permitted and placed in accordance with the Liquefied Petroleum Gas Safety Rules adopted by the Railroad Commission of Texas in Title 16, Part 1, Chapter 9, of the Texas Administrative Code, including any and all future amendments thereto.

**PUBLIC NOTICE AMENDMENT TO THE
BUILDING REGULATIONS ORDINANCE
CHAPTER 22 OF THE CITY OF WEST
LAKE HILLS CODE OF ORDINANCES**

Public hearings will be held at the City of West Lake Hills Zoning and Planning Commission meeting at 6:30 p.m. on March 18, 2020 and at the City Council meeting at 7:00 p.m. on March 25, 2020 at West Lake Hills City Hall, 911 Westlake Drive, West Lake Hills, Texas, to consider proposed amendments to Chapter 22 of the City of West Lake Hills Code of Ordinances. The proposed amendments will include changes related to setbacks for propane tanks.

The proposed amendment is available for viewing at West Lake Hills City Hall, 911 Westlake Drive, during regular business hours: 8:00 a.m. to 5:00 p.m., Monday through Friday. Comments regarding the proposed amendment may be emailed to planner@westlakehills.org or mailed to 911 Westlake Drive, West Lake Hills, TX 78746. For more information please call City Hall at (512) 327-3628.

2/27/2020

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