Board of Adjustment Motion Sheet - October 29, 2011 Board of Adjustment Meeting
Case No. C15-2012-0126, Nuria Zaragoza ("Appellant"), 1917 David Street, Austin Texas

Board member's Motion

"I move to reverse the Director's determination and approval of the building permit application for the property at 1917 David Street, Austin, Texas, finding the Director's interpretation of "bedroom" under the limitations on the number of bedrooms allowed in the Land Development Code subsection 25-2-555(D) should be substituted with the following interpretation. Staff should prepare a memo describing this interpretation and make it available to reviewers and the public."

Text of Interpretation:

(1) A room shown on the floor plan of a residential project, though not designated as a bedroom on the plan, is a "bedroom" for the purposes of determining the number bedrooms allowed under sections 25-2-555(D) of the Land Development Code if:

(A) the room has a minimum of 70 square feet in area and is not a kitchen, utility room, common living area or common circulation space (halls or stairs);

(B) the room has the minimum exit area for fire egress by means of windows or doors as required by the International Residential Code as adopted by the City of Austin;

(C) the room is configured so that it is or is capable of being a private space separated from all other areas of the building by a permanent door or doors; and

(D) the room has access to bathrooms only through shared common living or circulation areas also accessible from the designated bedrooms on the floor plans and no designated bedrooms shown on the plans has direct access to any of the bathrooms except through common living area or common circulation space.

(E) the room has access to multiple bathrooms through common living areas or common circulation spaces and all these bathrooms contain full bath fixtures including a tub or shower, toilet and multiple lavatories.

(2) This interpretation supersedes any conflicting interpretation previously issued by staff for the subject permit.

Findings

After the conclusion of the Board's deliberations, the Board finds:

(1) The Appellant has standing to appeal the Director's decision.

(2) There is reasonable doubt or difference of interpretation as to the determination of what constitutes a "Bedroom" with regard to the limitations set forth in section 25-2-555(D) of the Land Development Code, and written and oral testimony has been presented to support the Board's interpretation and reversal of the Director's decision; and

(3) The resulting interpretation approved by the Board will not grant a special privilege to one property inconsistent with other properties or use similarly situated; and

(4) When use provisions are being appealed, granting the appeal would clearly permit a use in character with the uses enumerated for the various districts and with the objective of the district in question.