

**NOTICE OF BOARD OF ADJUSTMENTS AND APPEALS (ZONING) REGULAR MEETING
CITY OF SOUTH PADRE ISLAND**

TUESDAY, SEPTEMBER 7, 2021
9:00 AM AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS

1. Call to Order

2. Pledge of Allegiance

3. Public Comments and Announcements

This is an opportunity for citizens to speak to the Board relating to agenda or non-agenda items. Speakers are required to address the Board at the podium and give their name before addressing their concerns. [Note: State law will not permit the Board of Adjustments & Appeals (Zoning) to discuss, debate or consider items that are not on the agenda. Citizen comments may be referred to City Staff or may be placed on the agenda of a future Board of Adjustments & Appeals (Zoning) meeting]

4. Regular Agenda

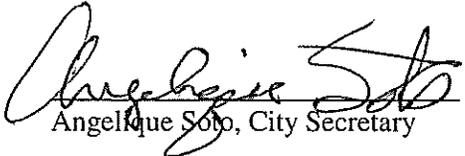
4.1. Discussion and action to approve the Minutes of the July 6, 2021 Regular Meeting.

4.2. Discussion and action regarding an appeal concerning the issuance of a Building Permit by the Building Department regarding 116 E Mars Lane. (Lot 10 Block 140, Padre Beach Subdivision, Section IX)

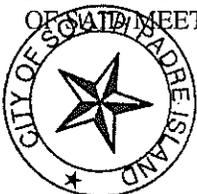
5. Adjourn

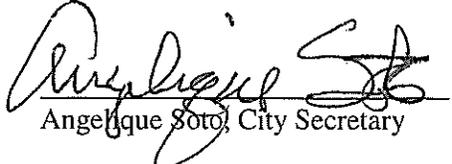
One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

DATED THIS THE 3RD DAY OF SEPTEMBER 2021


Angelique Soto, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE BOARD OF ADJUSTMENTS AND APPEALS OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **SEPTEMBER 3, 2021**, AT/OR BEFORE 3:00 PM AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.




Angelique Soto, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, GEORGE MARTINEZ AT (956)761-8103.

**CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS AND APPEALS
AGENDA REQUEST FORM**

MEETING DATE: September 7, 2021

NAME & TITLE: Marta Martinez

DEPARTMENT: Planning/Parks & Rec. Department

ITEM

Discussion and action to approve the Minutes of the July 6, 2021 Regular Meeting.

ITEM BACKGROUND

Approve July 6, 2021 regular meeting minutes.

BUDGET/FINANCIAL SUMMARY

N/A

COMPREHENSIVE PLAN GOAL

N/A

LEGAL REVIEW

Sent to Legal: No

Approved by Legal: No

RECOMMENDATIONS/COMMENTS:

**MEETING MINUTES
CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS & APPEALS (ZONING)**

TUESDAY, JULY 6, 2021

1. CALL TO ORDER

The Board of Adjustments & Appeals (Zoning) of the City of South Padre Island, Texas held a Regular Meeting on Tuesday, July 6, 2021 at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Chairman Paul Fedigan called the meeting to order at 9:00 a.m. A quorum was present: Board Members Joseph Praster, Chris Huffman, and Gordon Garlock. Board Member with an unexcused absence was Cain Mahan.

City staff Members present were Public Works Director C. Alejandro Sanchez, and Planning Coordinator Marta Martinez.

2. PLEDGE OF ALLEGIANCE

Chairman Paul Fedigan led those present in the Pledge of Allegiance.

3. PUBLIC COMMENTS AND ANNOUNCEMENTS.

None.

4. REGULAR AGENDA

4.1 APPROVE MINUTES OF JUNE 1, 2021 REGULAR MEETING.

Board Member Praster made a motion, seconded by Board Member Huffman to approve the June 1, 2021 regular meeting minutes as submitted. Carried unanimously.

4.2 PUBLIC HEARING: TO DISCUSS A REQUEST BY MARY AUSTIN FOR A VARIANCE FROM SECTION 20-10 (D) (2) (a) OF THE CITY'S CODE OF ORDINANCES. THE APPLICANT IS REQUESTING A VARIANCE TO THE SIDE YARD SETBACK FOR THE PROPOSED INSTALLATION OF A CARGO LIFT TO BE LOCATED AT 119 E CONSTELLATION DRIVE. (LOT 11, BLOCK 143, PADRE BEACH SUBDIVISION, SECTION X)

Chairman Fedigan announced the item from the agenda and opened the public hearing at 9:02 a.m. and asked if anyone wish to speak in favor or against this agenda item. Brian Austin spoke in favor of the agenda item. Chairman Fedigan then closed the public hearing at 9:03 a.m.

4.3 DISCUSS AND ACTION REGARDING A REQUEST BY MARY AUSTIN FOR A VARIANCE FROM SECTION 20-10 (D) (2) (a) OF THE CITY’S CODE OF ORDINANCES. THE APPLICANT IS REQUESTING A VARIANCE TO THE SIDE YARD SETBACK FOR THE PROPOSED INSTALLATION OF A CARGO LIFT TO BE LOCATED AT 119 E CONSTELLATION DRIVE. (LOT 11, BLOCK 143, PADRE BEACH SUBDIVISION, SECTION X)

Chairman Fedigan made a motion, seconded by Board Member Praster to approve the side yard setback variance for the proposed installation of a cargo lift. The motion carried unanimously.

4.4 PUBLIC HEARING: TO DISCUSS A REQUEST BY JAMES & PATSY MILLER FOR A VARIANCE FROM SECTION 20-7.1 (D) (2) OF THE CITY’S CODE OF ORDINANCES. THE APPLICANT IS REQUESTING A VARIANCE TO THE SIDE YARD SETBACK FOR THE PROPOSED INSTALLATION OF A CARGO LIFT TO BE LOCATED AT 120 E MARLIN STREET. (LOT 12, BLOCK 32, PADRE BEACH SUBDIVISION, SECTION III)

Chairman Fedigan announced the item from the agenda and opened the public hearing at 9:05 a.m. and asked if anyone wish to speak in favor or against this agenda item. Daniel Ortiz spoke in favor of the agenda item. Chairman Fedigan then closed the public hearing at 9:05 a.m.

4.5 DISCUSSION AND ACTION REGARDING A REQUEST BY JAMES & PATSY MILLER FOR A VARIANCE FROM SECTION 20-7.1 (D) (2) OF THE CITY’S CODE OF ORDINANCES. THE APPLICANT IS REQUESTING A VARIANCE TO THE SIDE YARD SETBACK FOR THE PROPOSED INSTALLATION OF A CARGO LIFT TO BE LOCATED AT 120 E MARLIN STREET. (LOT 12, BLOCK 32, PADRE BEACH SUBDIVISION, SECTION III)

Chairman Fedigan made a motion, seconded by Board Member Garlock to approve the side yard setback variance for the proposed installation of a cargo lift. The motion carried unanimously.

5. ADJOURN

There being no further business, Chairman Fedigan adjourned the meeting at 9:06 p.m.

Marta Martinez, Planning Coordinator

Paul Fedigan, Chairman

**CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS AND APPEALS
AGENDA REQUEST FORM**

MEETING DATE: September 7, 2021

NAME & TITLE: Alex Sanchez, Public Works Director

DEPARTMENT: Planning/Parks & Rec. Department

ITEM

Discussion and action regarding an appeal concerning the issuance of a Building Permit by the Building Department regarding 116 E Mars Lane. (Lot 10 Block 140, Padre Beach Subdivision, Section IX)

ITEM BACKGROUND

Staff has received an application request for an appeal concerning the issuance of a Building Permit #20210742 on July 21, 2021 for a Residential Remodel located at 116 E Mars in accordance with the City's Code of Ordinances. Since the appellant submitted the appeal a stop work order was placed on the remodeling construction on Friday, August 13, 2021. The subject property is located on the south side of E Mars Street and is zoned District "E" Low Density Residential Single Family and Townhouse Dwelling District.

The Notice of Appeal was placed in the Port Isabel/South Padre Island Press that ran on Thursday, August 26, 2021, and notices to property owners within two-hundred feet of the subject property were mailed out on Thursday, August 19, 2021 informing them of this appeal.

Staff has received two (2) emails in opposition.

For the Board's information, since this appeal of staff's determination, a supermajority of votes will be necessary to overturn staff's decision. A super-majority is four votes or more. Also, since this appeal does not involve the request for a variance, evidence of hardship will not be required.

BUDGET/FINANCIAL SUMMARY

N/A

COMPREHENSIVE PLAN GOAL

N/A

LEGAL REVIEW

Sent to Legal: Yes

Approved by Legal: Yes

RECOMMENDATIONS/COMMENTS:

Sec. 20-10. District "E"—Low Density Residential—Single-Family and Townhouse Dwelling District.

- (A) *Purpose.* This district is composed of those areas of the City whose principal use is and ought to be single-family dwellings and single-family attached Townhouse dwellings. This district is characterized by dwelling units with separate and distinct owners who own and reside within the dwelling units or rent these units. This district is intended to create and preserve areas of essentially single-family residential character, and promote a single-family residential neighborhood environment.
- (B) *Use Regulations:*
- (1) Dwellings, one family.
 - (2) Townhouses.
 - (3) Accessory buildings, including private garage and bona fide servants' quarters, not for rent. When the accessory building is directly attached to the main building it shall be considered an integral part of the main building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. The floor area of all accessory buildings on the lot shall not exceed fifty percent (50%) of the gross floor area of the principal structure.
 - (4) Temporary buildings to be used for construction purposes only, and which shall be removed upon the completion or abandonment of the construction work.
 - (5) Field offices for the sale of real estate for the specified development which shall be used for temporary offices only, to be removed after sales are closed, and to be used on the site only. A building permit is required for the installation of a field office and shall be valid for a one (1) year period, renewable upon expiration if sales are still active.
 - (6) Special Exceptions: Public Service Facility; Residential accessory uses in a vacant lot that is contiguous with a residential single family lot having a principal building under common ownership
- (C) *Height Regulations.* No building shall exceed forty-five (45) feet, when measured vertically from the center line of the street to the highest point of the building.
- (D) *Area Regulations:*
- (1) *Front yards:*
 - (a) There shall be a frontyard having a depth of twenty-five (25) feet.
 - (b) Where lots have double frontage, running through from one street to another, the required front yard shall be provided upon both streets.
 - (c) Corner lots shall provide the minimum frontyard setback along both streets, with the exception of corner lots on Laguna and Gulf Boulevards. The frontyard setback

for both the Laguna and Gulf Boulevard frontages or corner lots shall be ten (10) feet.

(2) *Side yards:*

- (a) There shall be a side yard on each side of the lot having a clear width of not less than five (5) feet, including projections of the side of the building such as eaves, cornices, porches, stairways, carports, etc.
- (b) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than ten (10) feet.
- (c) Where canals, bay front, beach front, and/or yacht basins occur at the side of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.

(3) *Rear yards.* Same as District "A" (minimum of 20 feet), except:

- (a) The structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the twenty (20) feet rear yard setback within ten (10) feet of the rear property line as provided for herein, shall be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance.
- (b) Where canals, bay front, beach front, and/or yacht basins occur at the rear of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.

(4) *Area of lot:*

- (a) For a single-family dwellings the minimum area of a lot shall be 5,000 square feet, or as recorded in the County Courthouse as of November 7, 1979.
- (b) For attached single-family Townhouse dwellings, the minimum area of a lot shall be 2,500 square feet per dwelling unit.

(5) *Width of lot:*

- (a) For a single-family dwelling, the minimum width of a lot shall be fifty (50) feet.
- (b) For attached single-family Townhouse dwellings, the minimum width of a lot shall be twenty-five (25) feet.

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- (6) *Depth of lot.* The minimum depth of a lot shall be one hundred (100) feet.
 - (7) *Sanitation.* There shall be no sewage disposal without water carriage. Chemical toilets may be erected on a temporary basis during construction only.
 - (8) *Special Area Requirements.* In no instance shall more than four (4) single-family attached Townhouses be connected as a single unit.
 - (9) *Driveways.* All driveways shall be limited to a maximum of twenty-six (26) lineal feet in width. No driveway shall extend beyond the required five (5) foot sideyard setback on either side of the residence. For Townhouse uses, an additional minimum open space area of one (1) foot on each Townhouse lot shall be required between the driveways of each adjoining Townhouse along the length of the common, interior property line for the length of the driveway.
 - (10) Reserved.
 - (11) Any condominium building which existed on August 3, 1994 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.
 - (12) Any structure which exists on August 3, 1994 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.
 - (13) Any land use that exists on August 3, 1994 that does not conform to the standards of the District "E" shall be deemed a conforming use and may continue the use as it was on August 3, 1994.

Texas Property Code

§ 92.010

Occupancy Limits

- (a) Except as provided by Subsection (b), the maximum number of adults that a landlord may allow to occupy a dwelling is three times the number of bedrooms in the dwelling.
- (b) A landlord may allow an occupancy rate of more than three adult tenants per bedroom:
- (1) to the extent that the landlord is required by a state or federal fair housing law to allow a higher occupancy rate; or
 - (2) if an adult whose occupancy causes a violation of Subsection (a) is seeking temporary sanctuary from family violence, as defined by Section 71.004 (Family Violence), Family Code, for a period that does not exceed one month.
- (c) An individual who owns or leases a dwelling within 3,000 feet of a dwelling as to which a landlord has violated this section, or a governmental entity or civic association acting on behalf of the individual, may file suit against a landlord to enjoin the violation. A party who prevails in a suit under this subsection may recover court costs and reasonable attorney's fees from the other party. In addition to court costs and reasonable attorney's fees, a plaintiff who prevails under this subsection may recover from the landlord \$500 for each violation of this section.
- (d) In this section:
- (1) "Adult" means an individual 18 years of age or older.

- (2) “Bedroom” means an area of a dwelling intended as sleeping quarters. The term does not include a kitchen, dining room, bathroom, living room, utility room, or closet or storage area of a dwelling.

is to alert the code user to requirements for bedrooms that are located in other sections and chapters of the code. In particular, see the following sections of the code and the associated commentary:

- Section 402.1 for minimum light requirements.
- Section 403.1 for minimum ventilation requirements.
- Section 404.2 for minimum room width.
- Section 404.3 for minimum ceiling height.
- Section 503.2, which prohibits a toilet room from being the only passageway to a hall or other space from a bedroom.
- Section 505.4, which requires a provision for combustion air in bedrooms that contain a fuel-burning water heater.
- Sections 602.2 and 602.5 for minimum heat required in a bedroom.
- Section 605.2, which requires at least two separate and remote receptacle outlets in each bedroom.
- Section 702.4 for required emergency escape windows and doors in bedrooms.
- Section 704 for required smoke detectors in the vicinity of the bedrooms.

404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

❖ Overcrowding is often a problem in rental properties and in small, single-family dwellings. It can create serious problems; for example, disease spreads more easily, privacy is lost, mental health is affected and buildings are subject to more abuse and wear. Overcrowding can have a destructive effect on a whole neighborhood if it takes place in several houses on the same block or in several units in the same apartment building. Reducing overcrowding will reduce related health and safety hazards.

The code requires all types of dwelling units to comply with occupancy area requirements. There is no exception for owner-occupied houses; however, overcrowding of owner-occupied, single-family residences requires the careful thought and judgement of the code official to determine an appropriate course of action.

Proving that a building is overcrowded may be difficult. Tenants may lie about the number of occupants in their unit to avoid eviction. To determine the number of occupants, the code official may try to count beds or the names on mailboxes. Neighbors may also provide valuable information about the number of occupants and may be able to tell when the occupants are most likely to be home. It may be necessary to conduct inspections during evening hours in order to find an adult occupant at home. School enrollment records can also provide information on overcrowding.

Some communities have laws requiring an occupancy permit to be issued before a dwelling unit can

be occupied. This allows the number of occupants shown on the application to be checked against the maximum occupancy of the dwelling unit as determined by an inspection [see Commentary Figure 404.5(1)].

Some floor plan arrangements would allow the dining and living room areas to be considered as combined dining/living/sleeping rooms. To illustrate the alternative analytical approach for the maximum number of occupants, consider the following example in which two analyses will be made: the first assumes only the three bedrooms are used for sleeping purposes; the second assumes the living/dining area is to be counted as providing sleeping space [see Commentary Figure 404.5(2) for an example of an arrangement where the access to the kitchen is not through the dining/living room]. The requirement of Section 404.4.2, therefore, would be met and the maximum occupant load would be the highest of the following two analyses.

ANALYSIS 1 OCCUPANT LOAD ANALYSIS WITH NO COMBINED SLEEPING ROOM USAGE

1. Sleeping space: Section 404.4.1 indicates that 70 square feet (6.5 m²) is required for a room occupied by one person and 50 square feet (4.6 m²) per person is required for a room occupied by more than one person. In this example, we arrive at the following:

SLEEPING AREAS	ACTUAL AREA (SQ. FEET)	ALLOWABLE NO. OF OCCUPANTS
Bedroom 1	113	2
Bedroom 2	127	2
Bedroom 3	92	1

For SI: 1 square foot = 0.0929 m².

At this point the maximum possible occupant load is five. It can be no higher due to lack of additional sleeping space.

2. Living, dining and kitchen space: Table 404.5 establishes the minimum required areas that will accommodate various numbers of occupants. By using Table 404.5, the following is derived:

SPACE	ACTUAL AREA (SQ. FEET)	ALLOWABLE NO. OF OCCUPANTS
Living room	220	6 or more
Dining room	100	6 or more

For SI: 1 square foot = 0.0929 m².

3. Maximum allowable number of occupants: The actual living, dining and kitchen areas provide the maximum required space for six or more occupants; therefore, the maximum allowable number of occupants based on this analysis, which is five occupants, is governed by the sleeping space provided.

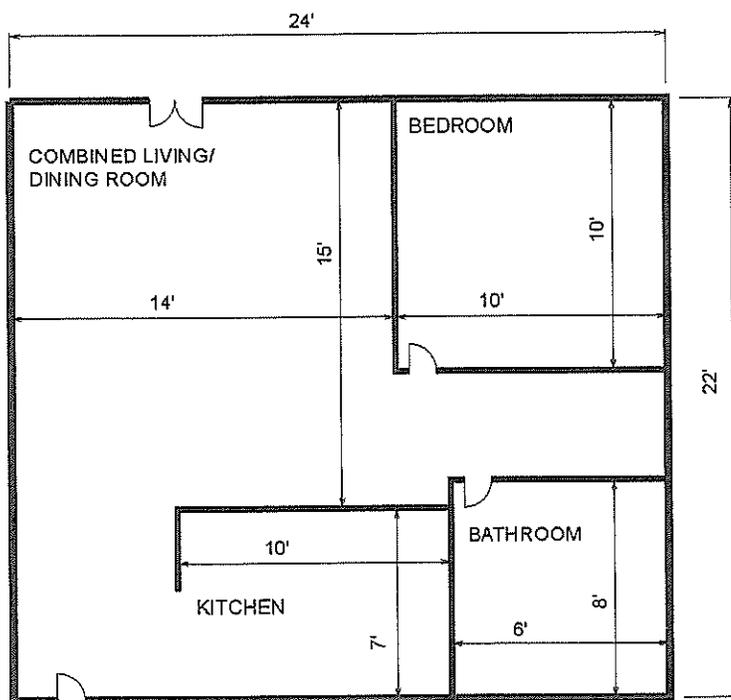
In this case, the living, dining and kitchen areas provide the minimum required space for any number of occupants. As such, if Bedroom 3 was 100 square feet (9.3 m²) rather than 90 square feet (8.4 m²), the maximum allowable occupant load would be six, rather than five, because Bedroom 3 would provide adequate sleeping space for two occupants.

ANALYSIS 2 OCCUPANT LOAD ANALYSIS WITH COMBINED LIVING/DINING/SLEEPING SPACE

It was previously determined that the bedrooms provide sleeping space for five occupants and the living, dining and kitchen areas are adequate for any number of occupants; however, the code does not prohibit the

dual use of a room as living/sleeping or living/dining/sleeping, as long as the room meets the requirements for each intended use. In this example, the living/dining room could be considered a combined living/dining/sleeping room.

When determining the maximum occupant load for a combined living/sleeping or living/dining/sleeping room, Section 404.5.1 mandates that the minimum areas required by Table 404.5 are not to be included as sleeping areas; therefore, if the combined living/dining/sleeping room were used by one person for sleeping, at least 70 square feet (6.5 m²) is necessary (Section 404.4.1), leaving 250 square feet (23.2 m²) available for combined living/dining purposes [320 square feet (29.7 m²) total minus 70 square feet (6.5



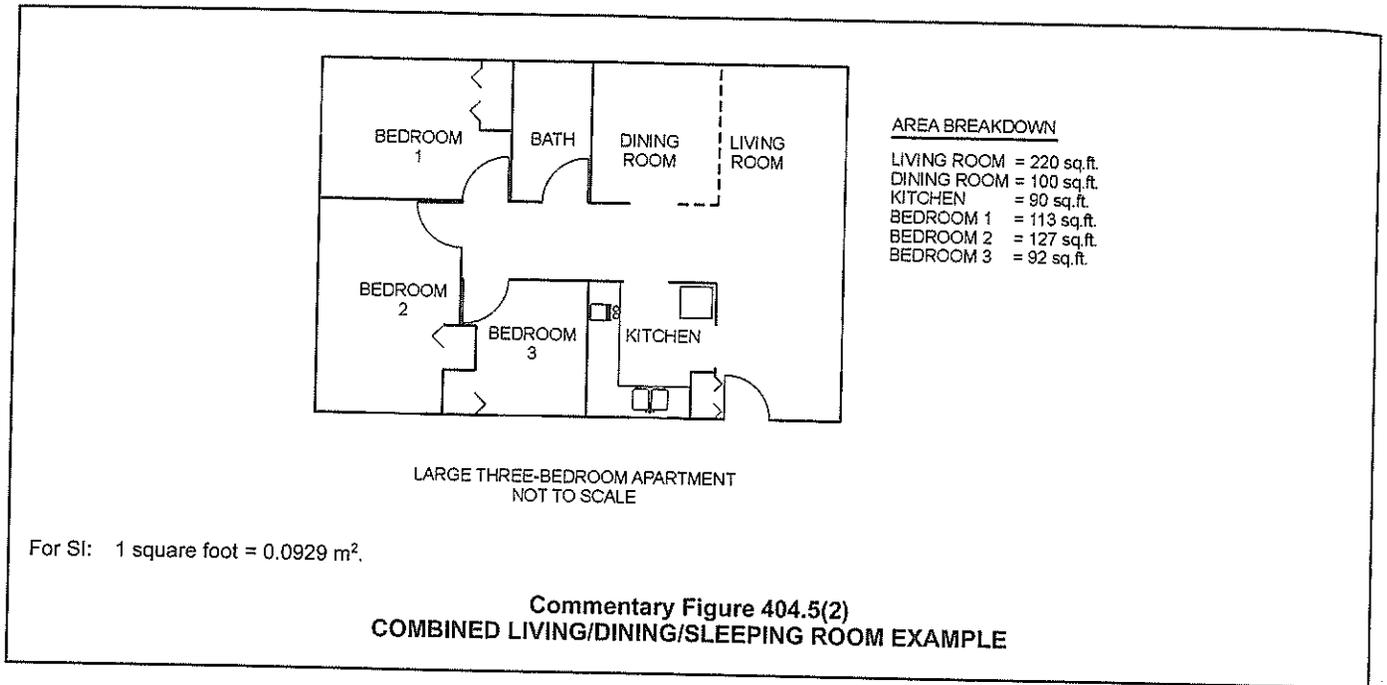
MAXIMUM OCCUPANCY ALLOWED:

1. COMBINED LIVING/DINING ROOM = 210 SQ.FT.
THIS SPACE WOULD ACCOMMODATE NO MORE THAN FIVE OCCUPANTS IN ACCORDANCE WITH TABLE 404.5 AND SECTION 404.5.2.
2. KITCHEN = 70 SQ.FT.
THIS SPACE WOULD ACCOMMODATE AN UNLIMITED NUMBER OF OCCUPANTS IN ACCORDANCE WITH TABLE 404.5.
3. BEDROOM = 100 SQ.FT.
THIS SPACE WOULD ACCOMMODATE ONE OR TWO OCCUPANTS IN ACCORDANCE WITH TABLE 404.5.

BECAUSE THE BEDROOM WILL ONLY PERMIT A MAXIMUM OCCUPANCY OF TWO, THAT IS THE MAXIMUM OCCUPANCY FOR THIS ENTIRE UNIT. THE OCCUPANCY IS LIMITED TO THE MAXIMUM PERMITTED BY THE LEAST AREA PROVIDED IN ONE OF THE CATEGORIES IN TABLE 404.5.

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

**Commentary Figure 404.5(1)
MAXIMUM OCCUPANCY LOAD IN DWELLINGS**



m²) equals 250 square feet (23.2 m²]. Table 404.5 and Section 404.5.2 would allow a combined living/dining room of 250 square feet (23.2 m²) to accommodate any number of occupants (six or more), which is the same as the first example. The total number of occupants for which a sleeping area is provided is now a maximum of six (the bedrooms accommodate five and the combined living/dining/sleeping room accommodates one); therefore, the maximum allowable occupant load based on this analysis would be six.

In this example the combined living/dining/sleeping room would be subject to all requirements for sleeping areas, including emergency escape windows (Section 702.4) and smoke detectors (Section 704).

TABLE 404.5
MINIMUM AREA REQUIREMENTS

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m².

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

❖ Table 404.5 establishes the minimum room sizes and the maximum occupant loads for living spaces. The code official is to use this table to determine if a residence is overcrowded. See the commentary to Section 404.5 for examples of the application of this table.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping

area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 404.4.

❖ The purpose of this section is to prohibit the dual use of dining rooms and living rooms as sleeping rooms, unless they are of sufficient size to incorporate the minimum required space for sleeping, in addition to the minimum required space for the dining or living room areas listed in Table 404.5. For example, if a dwelling is occupied by five people and one person is using the living room as a sleeping area, the minimum required size of the living room would be 190 square feet (17.7 m²). This is based on 120 square feet (11.1 m²) for the living room, in accordance with Table 404.5, and 70 square feet (6.5 m²) for the single-occupant sleeping area, in accordance with Section 404.4.1.

The code does not prohibit a living or dining room from serving a dual purpose as a sleeping area; however, the room must be sized to accommodate both functions. See the commentary to Section 404.5 for additional examples of calculating the maximum allowable occupant load in dwellings where certain rooms are used for dual purposes.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

❖ When a living room and a dining room are combined into one room, the combined area must equal the sum of the minimum required area of each separate room established by Table 404.5. See Analysis 2 in the commentary to Section 404.5 for further illustration.



Marta Martinez <mmartinez@myspi.org>

Notice of Appeal - Building Permit # 20210742

1 message

jlstout11@verizon.net <jlstout11@verizon.net>

Wed, Aug 25, 2021 at 4:21 PM

To: MMartinez@myspi.org

Cc: pmcnulty@myspi.org, jricco@myspi.org, ejdalton@myspi.org, lcaballero@myspi.org, kmedders@myspi.org, kschwartz@myspi.org, Irv Downing <iwdowning@gmail.com>

Marta Martinez

City of South Padre Island

4601 South Padre Boulevard

Email: MMartinez@MySPI.org

Re: **Notice of Appeal - Building Permit # 20210742****Subject Property:** Lot 10 Block 140 Padre Beach Subdivision Section IX-116 E. Mars Lane**Owners:** Shirley & Ezra Weinstein

Ms. Martinez,

Please accept this email as our official comment to the Notice of Appeal of Mr. and Mrs. Irv and Pam Downing with regard to the above referenced property and Building Permit #20210742 filed on August 10, 2021.

Had we known about the issuance of this Building Permit we would have filed our own Appeal. However, we did not, thus this email to join the Downing's Appeal. Please know our position: **we strenuously oppose** the Building Permit issued by the City of South Padre Island's Building Inspector to Mr. & Mrs. Weinstein for said property. We are the property owners and residents of Lot 12A, Block 140, Padre Beach Subdivision, 120A E. Mars Lane, SPI, Texas 78597, and have standing to join this Appeal.

The Weinstein's obtained this Building Permit for renovations to the subject property allowing them to reduce the original electrical boxes to 1, maintain one kitchen, reduce entrances to the property to one door and to add a pool, which they allege would make the property meet Code for a single-family residence.

Further, by public admission expressed on their vacation website, the Weinstein's travel the county and live in an RV. By all appearances the Weinstein's show no intent to reside or make said property their family residence, nor the residence of any other single-family, but rather the intent to rent said property to a group or groups of 18 people as advertised on their vacation website. We have come to this conclusion based upon the Weinstein's other Zula Beach portfolio properties as places to rent for large groups; "...Can sleep up to 18 people so great for larger groups." (Weinstein's vacation website).

This intent on its face is NOT a Low-Density Residential Single-Family Townhouse Dwelling as set forth under Sec. 20.10 of the City of South Padre Island Code of Ordinances, "Code". The property renovations reflect that of a Multi-Family Residential Group Dwelling as set forth under Sec. 20.3 of the Code.

Although there has been no official Variance which would allow such magnitude of change to District E Zoning for said property, it is absurdly apparent that the Weinstein's intent is to change said property into that of a property permitted in the SPI B-2 Zoning District. While this would certainly be beneficial to our City's budget, it is not in keeping with our stated desires in the City's Code of Ordinances; Single-Family Residences and Townhouse Dwellings...intended to create and preserve areas of essentially single-family residential character, and promote a single-family residential neighborhood environment. Section 20-10(A).

What is also disturbing to us, is that the City's Building Inspector presumably stated that the Department does not consider the SPI Zoning Ordinance when issuing Building Permits. If this is the case, Variances would not be required, residents would not be notified, changes to the property would be made that are not allowed under the applicable Zoning District Code and City Ordinances; the owner would be able to move forward without the residents within the property Zoning District having any knowledge of what was happening and then having to live with the outcome without a remedy afforded them, i.e. veiled pretenses. Then the owner of the property could come back and say he didn't understand or have knowledge of the applicable Zoning District Code prior to purchasing the property causing him undue hardship. It would be contrary to the public interest should the Authority Board allow the current Building Permit to stand and to not reverse it. As residents in Zoning District E we have the right to be informed and to take action should a Building Permit be issued that vails a potential change to our Zoning District with or without the required Variance request being filed as it seems the Weinstein's have done.

We purchased our property in 2017 with the intent to retire and become permanent residents of the Island. We have been vacationing on the Island every year since 1998. We have dreamt of owning our own place for many of those years. In 2017 our dream became reality. We purchased our property on Mars to be close to family, Laura Fincher, now deceased, and because it was a single-family residential neighborhood with characteristics we value for our family. We also have been renting our property as a family vacation Short Term Rental. Our property sleeps 12 individuals. We have reduced the capacity to 10 with no more than 8 adults. We primarily rent to families who want to stay 5 days, a month or more. We have done this because of the increase in 3 day and weekend renters who come to the Island to party continuously, who park on neighboring property, who through trash on those properties, who drive 30 to 40 miles an hour down residential streets having no regard to the families and residents living there, nor the City Ordinances.

We value the family feel of Mars Lane and cherish the support and security of our Mars Lane family. We purchased our property on Mars for that express reason. We did not purchase it to live amongst a group of 18 persons whose likely intent is to party hard for a few days and leave, all to be repeated, again and again.

Respectfully,

Randolph & Jennifer L. Stout

120A E. Mars Lane

South Padre Island, Texas 78597

September 1, 2021

Marta Martinez
South Padre Island Planning Department
601 Padre Blvd. S.
Padre Island, TX 78597
Via Email: mmartinez@MYSPI.org

RE: 116 E. MARS LN. S., PADRE ISLAND - RENOVATION

Dear Ms. Martinez:

I'm writing with reference to an appeal by Pam and Irv Downey filed August 10th regarding the property at 116 E. Mars Ln. S., Padre Island. My wife and I own the house directly across from this property and we are greatly concerned about the new owner's intentions and current construction that is underway. It is my understanding that the new owner is attempting to renovate the house so that it will accommodate 18 adults. This would be very problematic for us and for all of our neighbors, most of whom are permanent residents. Alloys are not enough parking available for this many adults; simply having that many adults in a house would invite a party house. While many of our neighbors do rent their houses on a short-term basis, all of them are very conscientious about limiting the number of people for each rental.

We are all concerned that allowing this type of renovation and reconstruction to accommodate that many people and that many cars would greatly disrupt our neighborhood and interfere with everyone's enjoyment of the island.

I would appreciate it if you would make this letter available to the people on the board of adjustments and appeals.

Very truly yours,

/s/ Anthony L. Leffert
Anthony L. Leffert

Enclosures: n/a
cc: n/a



**CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENT & APPEALS APPLICATION**

- \$250 variance
- Special Exception Use (Sec. 20-16.1)
- Administrative Appeal

APPELLANT

APPLICANT INFORMATION

PAMELA AND IRV DOWNING

Name C/O RENTERO, IRWIN & IRWIN, PLLC

OWNER INFORMATION

Name _____

Mailing Address 1650 PAREDES LANE ROAD, SUITE 102 Mailing address _____

City, State, Zip Brownsville, TX 78521

City, State, Zip _____

Phone number 956 542-4329

Phone number _____

Fax number 956 542-4320

Fax number _____

Email Address DAVID@RENERO.LAWFIRM.NET

E-mail Address _____

SITE LOCATION FOR REQUEST:

Physical Address (Street Name & Number): 116 E MARS

Legal Description (Lot / Block / Subdivision): 10/140/TX / PADRE BEACH

I hereby request the following from the Board of Adjustment and Appeals: ENCLOSED PLEASE FIND

IRV AND PAMELA DOWNING'S NOTICE OF APPEAL OF PERMIT

NUMBER 20210742.

In addition, the application requires the submission of the following:

- ◇ \$250 application fee per variance, special exception, and appeal request.
- ◇ Stamped/Sealed & dated survey of Improvements of the Subject Property.
- ◇ Copy of Floor Plan of structure proposed to be constructed or expanded.
- ◇ Current/recent photographs of the site.
- ◇ And any additional information to more clearly understand the request.

For Internal use only:
Amount Paid: _____
Paid Cash or Check No. _____
Date Received: _____

Note: Applicants are required to fully disclose in the application all information that is necessary for the various bodies to make their determination prior to issuance of any permit. At a minimum, an application for a variance or Special Exception shall contain ten (10) copies of the information outlined above. All information must be submitted no later than twenty (20) days prior to the meeting date. All fees must be paid prior to the Board reviewing the application.

If Staff determines that the application is incorrect, incomplete, illegible, or in any way inadequate to insure the complete understanding of the variance or special exception, staff shall return the application to the applicant.

DAVID F. IRWIN, ATTORNEY FOR APPELLANT

Applicant's Name (Please Print) David F. Irwin

Owner's Name (Please Print): _____

Applicant's Signature: David F. Irwin

Owner's Signature: _____

Date: 8/10/21

Date: _____

RENTFRO, IRWIN, & IRWIN, P.L.L.C.

DANIEL L. RENTFRO, JR
drentfro@rentfrolawfirm.net

DAVID F. IRWIN
david@rentfrolawfirm.net

DANIEL L. RENTFRO
(1925 – 2007)

WILLIAM J. IRWIN
bill@rentfrolawfirm.net

August 10, 2021

Board of Adjustment & Appeals
The City of South Padre Island, Texas
4601 Padre Blvd
South Padre Island, Texas 78597

Re: Notice of Appeal of Permit Number 20210742 (the “Building Permit”)

Dear Board Members,

This firm represents Pamela and Irv Downing. Please forward all future communications in this matter to us. Please allow this correspondence and the enclosures herein to constitute the Notice of Appeal of the Building Permit being filed on behalf of Mr. and Mrs. Downing. By perfecting the appeal, all proceedings under the Building Permit are stayed pending the determination of the Board of Adjustment & Appeals. We request confirmation that all work under the Building Permit will be stayed until determination of this appeal is made.

Mr. and Mrs. Downing do not bring this appeal lightly. Mr. and Mrs. Downing have lived in the City of South Padre since 2001. In 2005, they developed a single-family home at 114 E. Mars Lane as their principal residence—which remains their principal residence to this day. Prior to building their residence, they performed their due diligence to ensure that they built in a location having low-density residential zoning classification and single-family characteristics—living next to a party house is precisely the type of situation they wanted to avoid; however, that is the precise situation in which now find themselves. It is clear that the Weinstens intend to operate a hotel or boarding house, serving multiple unrelated parties, in a low-density residential zoning area. The only reason for the proposed construction is to conduct an activity that will violate the applicable zoning.

The single-family home and lot adjoining them to the East was acquired by the Weinstein family in mid-April 2021 from Mr. Clifton. The Weinstens are currently renovating the single-family home as a rental property as part of their Zula Beach portfolio of properties. As background, Zula Beach has five vacation rental properties in Destin, Florida with the following sleeping accommodations capacities: 3 properties – 16 persons each; 1 property – 18 persons; and, 1 property – 14 persons. Zula Beach also has a property in the City of South Padre. That property is known as Zula Siesta and is located at 112 E. Mesquite, which shows sleeping accommodations for 18 persons. The property located at 112 E. Mesquite is zoned B-2 (residential and multifamily)—not zoned in District E.

From what we understand, Mr. and Mrs. Weinstein's position is that the property meets code for a single-family residence because they have reduced the electrical boxes to just one in the house, there will only be one kitchen, and they have reduced the house to one entrance (they have removed an outside stairs and entrance to a separate unit on the second floor) and another door in front of the house. However, they have confirmed that they will accommodate up to 18-person occupancy at a time.

On July 7, 2021, Mr. and Mrs. Downing met with Martha Martinez and the Chief Building Official regarding the developer's permits at 116 E. Mars Lane, and raised the issue of a zoning violation. A week later, the City red-tagged the development for doing work outside of the renovation permit. However, a few days later, the renovation project resumed with a new building permit. The City has not provided an explanation for rescinding the stop work order and issuing the Building Permit.

Whether or not the work described in the Building Permit meets code for a single-family residence, in substance the Building Permit will rezone the property. If the Building Permit is upheld in this case, then that will set a precedent for future cases—rendering the single-family requirement meaningless.

The City's Ordinances define "family" as meaning any number of individuals living together as a single housekeeping unit; as distinguished from a group occupying a boarding house or hotel. Sec. 20-3. The City's Ordinances further provide that District E is composed of those areas of the City whose principal use is and ought to be single-family dwellings and single-family attached Townhouse dwellings. Sec. 20-10(a). The express intent of District E is to create and preserve areas of essentially single-family residential character, and promote a single-family residential neighborhood environment. That is, the express intent of District E is to prohibit dwellings from being used as boarding houses or hotels.

Moreover, the express intent of District E is to require single family dwelling structures—not structures with 7 bedrooms akin to how the structure at 116 E. Mars Lane is being renovated.

It is our understanding that the Weinstains intend to use the property as non-homestead property that is rented similar to boarding houses or hotels. See enclosed printout from the Zula Beach website. As a result, the Building Permit was issued for construction work to convert the property to a use other than the use permitted by the City's Ordinances for District E. The Building Permit includes a certification and an agreement that all of the provisions of the Zoning Ordinance and the Ordinances of the City of South Padre Island will be complied with whether herein specified or not.

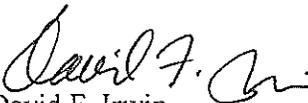
Allowing the renovation work under the Building Permit to be performed will effectively rezone District E to authorize the operation of de facto boarding houses and hotels, serving more than a dozen unrelated guests, in single family neighborhoods. If the City wishes to amend the City's Ordinances in this manner, then the proper avenue is through the City Commission—not the Building Inspection Department through the Building Permit.

This matter is therefore ripe for determination by the Board of Adjustment and Appeals—whether the form of the building code can operate to amend the structural requirements for single family dwelling structures and to effectively rezone property for a use that is prohibited in a certain district.

We believe the answer to those issues to be no, and request that the Board of Adjustment and Appeals revoke the Building Permit and make any related findings consistent thereto.

Accordingly, please find check #2274 made payable to the City of South Padre Island and written in the amount of \$250.00 and the executed City of South Padre Island Board of Adjustment & Appeals Application.

Very truly yours,


David F. Irwin

Enclosures

xc: Building Inspection Department
4601 Padre Blvd
South Padre Island, Texas 78597

Andres Hernandez
Southern Square Construction
204 W. Carolyn
South Padre Island, Texas 78597

Shirley Weinstein
Erez Weinstein
112 E. Mesquite
South Padre Island, Texas 78597

Shirley Weinstein
Erez Weinstein
10070 Timberstone Rd
Alpharetta, Georgia 30022

BUILDING PERMIT

CITY OF SOUTH PADRE ISLAND
 BUILDING INSPECTION
 DEPARTMENT
 4601 PADRE BLVD.
 SOUTH PADRE ISLAND, TX 78597
 (956) 761-1025
 (956) 761-3898 FAX



PERMIT NUMBER: 20210742
Date: 7/21/2021

#124506

OCCUPANCY:	
CONSTRUCTION TYPE:	
ZONING DISTRICT:	
FLOOD ZONE:	
# STORIES:	TOTAL HEIGHT:
AREA OF LOT:	
FLOOR AREA (1 ST FLOOR)	0.00
FLOOR AREA (2 ND FLOOR)	0.00
IN ACCORDANCE WITH ALL CITY CODES AND ORDINANCES	
CONDITIONS OF APPROVAL:	
I HEREBY CERTIFY AND AGREE, THAT ALL OF THE PROVISIONS OF THE BUILDING CODE, THE ZONING ORDINANCE AND THE ORDINANCES OF THE CITY OF SOUTH PADRE ISLAND WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. PERMIT MAY BE REVOKED AT ANY TIME UPON VIOLATION OF ANY OF THE PROVISIONS OF SAID REGULATIONS. I HEREBY AGREE TO SAVE, INDEMNIFY AND KEEP HARMLESS THE CITY OF SOUTH PADRE ISLAND AGAINST ALL LIABILITIES, JUDGEMENTS, COSTS AND EXPENSES WHICH MAY IN ANY WAY ACCRUE AGAINST SAID CITY BY CONSEQUENCE OF THE GRANTING OF THIS PERMIT, OR FROM THE VIRTUE THEREOF AND WILL IN ALL THINGS STRICTLY COMPLY WITH THE CONDITIONS OF THIS PERMIT.	
I HEREBY ACKNOWLEDGE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT I AM THE OWNER OR THE DULY AUTHORIZED AGENT OF THE OWNER. I AGREE TO COMPLY WITH CITY AND STATE LAWS REGULATING CONSTRUCTION AND IN DOING THE WORK AUTHORIZED THEREBY. I UNDERSTAND THAT RESPONSIBILITY FOR COMPLIANCE RESTS WITH THE PERMIT HOLDER.	
SIGNATURE OF OWNER, CONTRACTOR OR AGENT	
X	
AGENT/FORM	
ADDRESS:	CITY:

JOB LOCATION	JOB ADDRESS:	116 E MARS
	LOT:	10
	BLOCK:	140
	SECTION:	IX
	SUBDIVISION:	PADRE BEACH
OTHER:		
CONTRACTOR	NAME:	ANDRES HERNANDEZ
	ADDRESS:	SOUTHERN SQUARE CONSTRUCTION
	CITY/STATE:	204 W CAROLYN
	LICENSE NO.:	SOUTH PADRE ISLAND TX 78597
	CELL:	
OFFICE:	956-455-9040	
OWNER	NAME:	SHIRLY & EZRA WEINSTEIN
	ADDRESS:	112 E MEZQUITE
	CITY/STATE:	SOUTH PADRE ISLAND TX 78597
	PHONE:	678-763-4034
DESIGNER	NAME:	
	ADDRESS:	
	CITY/STATE:	
PROPOSED WORK	WORK TO BE DONE: RESIDENTIAL REMODEL	
	DESCRIBE: DOWNSTAIRS, FIRST FLOOR, BATHROOM REMODEL, SHEETROCK, FLOORS, WALLS, FRAMING AND MECHANICAL, ELECTRICAL, AND PLUMBING	
	CURRENT USE:	
	TYPE:	RESIDENTIAL REMODEL
	UNITS:	0.00
VALUATION:	\$15,000.00	
APPLICATION APPROVAL		
THIS PERMIT DOES NOT BECOME VALID UNTIL SIGNED BY BUILDING INSPECTOR AND FEES ARE PAID.		
X		
SIGNATURE OF INSPECTOR		

FEE CODE	DESCRIPTION	AMOUNT
100	BUILDING PERMIT	\$ 105.00
TOTALS		\$ 105.00

City of South Padre Island
Building Permit Application



Proposed Work Site: email application to: spi-permits@myspi.org

PHYSICAL ADDRESS:

LEGAL DESCRIPTION:

116 E MARS LN, South Padre Island TX

Property Owner Information:

Contractor Information:

Name: EREZ WEINSTEIN

Name: Southern Square Construction LLC

Mailing Address 10070 TIMBERSTONE RD

Mailing Address 204 W. Carolina

City, State, Zip ALPHARETTA GA 30022

City, State, Zip SPI TX 78597

Phone Number: 678-763-4030

Phone Number: 956-455-9040

Fax Number

Fax Number

E-mail Address: EREZWE@GMAIL.COM

E-mail Address:

Cost/Improvement Value \$ 15,000

Contractor Signature: [Signature]

(Excluding residential structures, additions and remodels)

Date: 7/19/21

TDLR Registration No.

License & Permit Bond Yes No (If No, one is required)

PLEASE NOTE: A Beach & Dune Permit is required for properties located east of Gulf Blvd, a Building Permit cannot be issued until the B&D Permit has been approved & issued first.

TYPE OF CONSTRUCTION

- New Addition Remodeling Repair Move Demolition

Building Height: _____ Square footage _____ # Floors _____ # Parking Spaces _____
 Lot Square Feet _____ Lot Front _____ Floor Elevation Above Curb _____
 Floor area per story: First _____ Second _____ Third _____ Other _____
 Lot Existing Use _____ New Use _____
 List other Permits that will be required _____

OTHER WORK BEING DONE BESIDES NEW CONSTRUCTION downstairs, Bathroom remodel, Sheetrock, Floors, Walls, Framing, HVAC, Electrician, Plumbing

FLOOD HAZARD (All zones considered Flood Hazard)

Special Flood Hazard Area (SFHE) including Base Flood Elevation (BFE)
 New and Substantial Improvements - Lowest floor elevation in relation to mean sea level
 Flood proofing - Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed:

Received

Residential Use Only:

No. of Units _____, Bedrooms _____, Bathrooms _____, Sq. Feet non-Living _____, Sq. Feet Living _____

JUL 20 2021

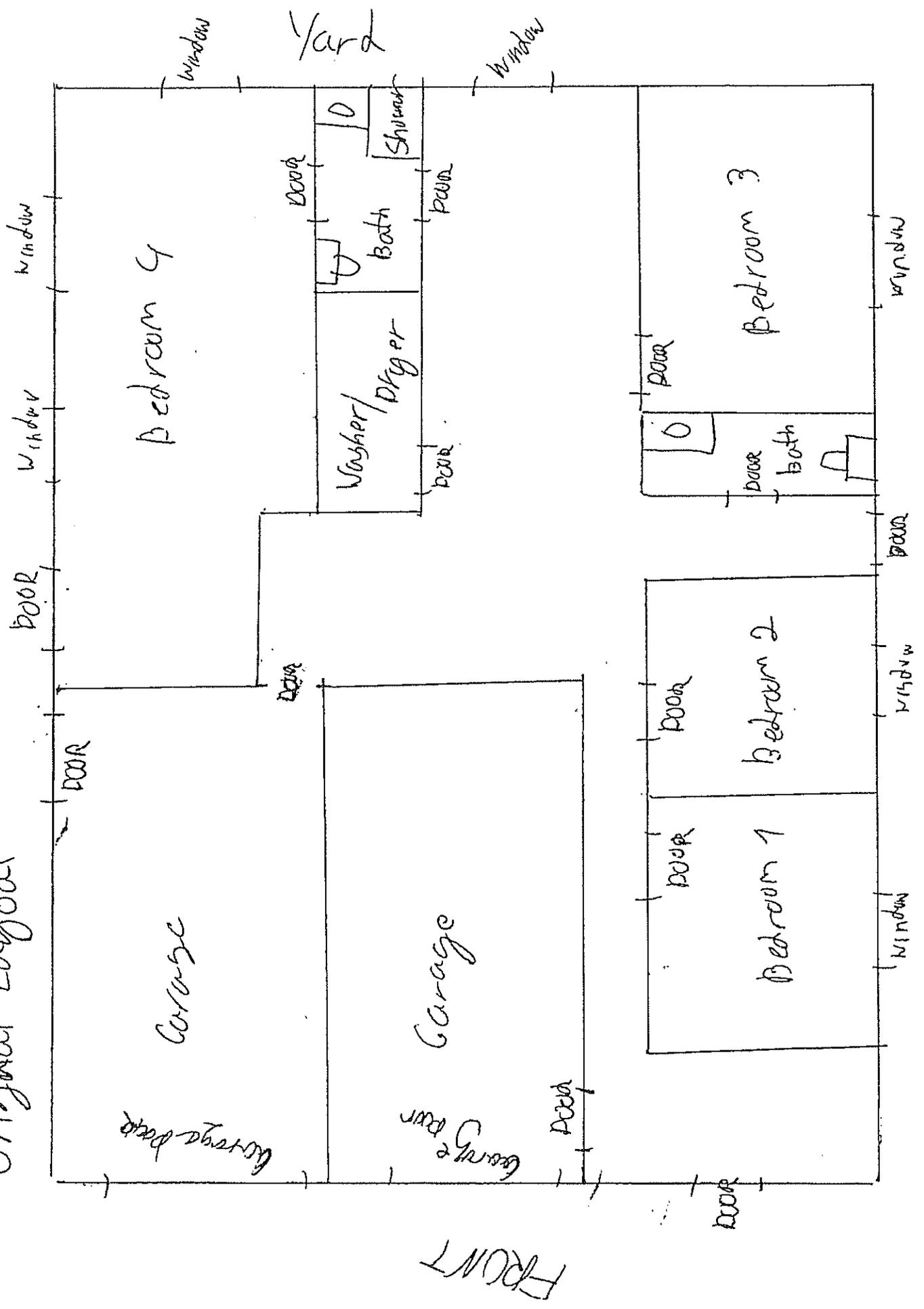
OTHER

City of South Padre Island
Inspections Department

FOUNDATION	EXT. WALL	ROOF	SPECIAL CONDITION
<input type="checkbox"/> Concrete slab on pilings	<input type="checkbox"/> Masonry Veneer	<input type="checkbox"/> Wood Shingle	<input type="checkbox"/> Public Sidewalk
<input type="checkbox"/> Concrete pier	<input type="checkbox"/> Masonry Solid	<input type="checkbox"/> Composition	<input type="checkbox"/> Corner Lot
<input type="checkbox"/> Wood pier & beam	<input type="checkbox"/> Metal Siding	<input type="checkbox"/> Metal	<input type="checkbox"/> Cul De Sac
	<input type="checkbox"/> Composition	<input type="checkbox"/> Build Up	<input type="checkbox"/> B&D Conditions
	<input type="checkbox"/> Wood		<input type="checkbox"/> Other

NOTICE: Separate Permits are required for Electrical, Plumbing, Heating, Ventilating or Air Conditioning. This permit becomes null and void if work or construction authorized is not commenced within 6 months, or if construction or work is suspended or abandoned for a period of 6 months at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Original Layout - 16 MARS



Zula Beach Vacation Homes

We Look Forward To Have You As Our Guests

Book Now

Home About Our Vacation Homes BOOK NOW Blog Video Walkthroughs Join Mailing List Contact Us

Book Directly and SAVE! No Booking Fees & Best Price Guaranteed



We're Your Hosts - The Weinstein Family

We LOVE the beach and we LOVE to host so we bought beach houses in our favorite locations, Destin FL and South Padre Island TX, and share it with others to enjoy!

We travel fulltime in an RV since 2018 with our 2 kids and a cat. We've been all over North America, but Destin still remains our all time favorite place!

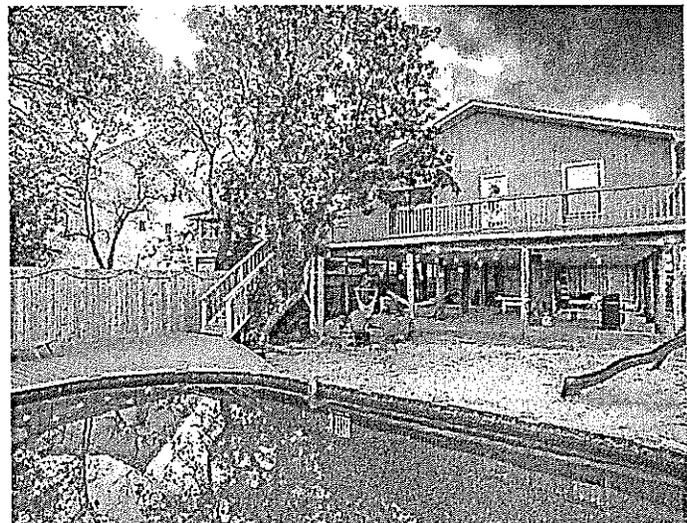
Follow our travels [@ZulaLife](#)

Zula Beach Destin FL

93 Cobia St, Destin FL 32541
Sleeps 16 | 3 Bedrooms, 3 Bathroom

Large Private Heated Pool, big yard and covered play area! Enjoy the large open space perfect for large groups only 3-4 minutes walk to the beach at the end of the street. Smart TVs in every room and a huge TV in the living room. Newly renovated with lots of upgrades!

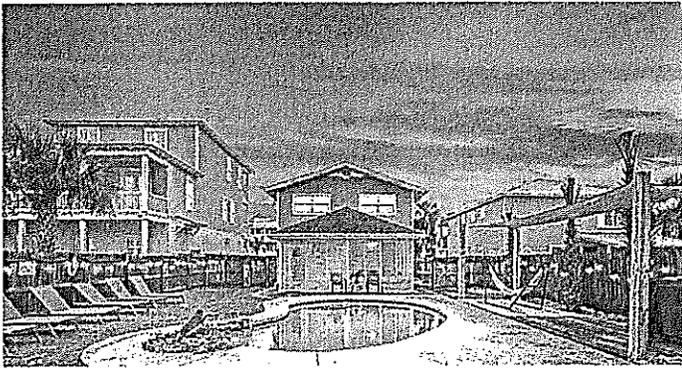
More Info and Online Booking



Zula Dreams Destin FL

70 Pompano St, Destin FL 32541
Sleeps 16 | 4 Bedrooms, 3 Bathrooms





Location! Location! Location! Just a 1 minute walk to the beautiful white sand beach. The beach access is 135 yards from our driveway and the large backyard with a heated private pool is the perfect place to relax after a day at the beach. King size beds in 3 rooms and a kids room with 2 double bunk beds!

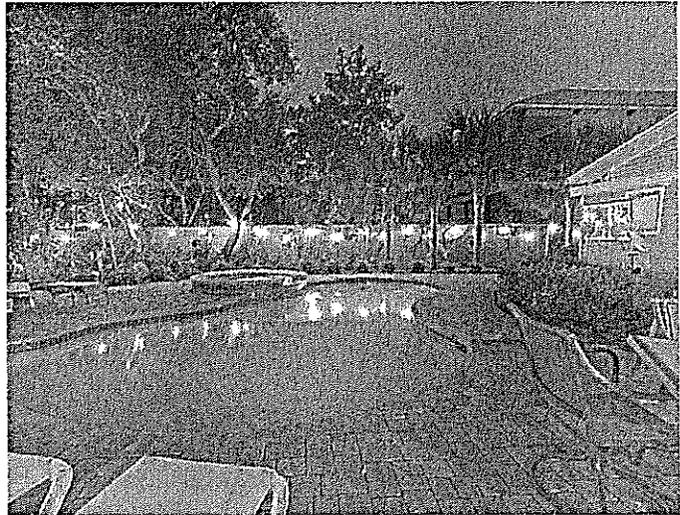
More Info and Online Booking

Zula Life Destin FL

87 Cobia St, Destin FL 32541
Sleeps 16 | 3 Bedrooms, 3 Bathrooms

Outdoor Oasis. This house has an amazing large private pool and hot tub (can be heated as well) and we even put an outdoor smart TV so you can watch your favorite streaming channels while enjoying the pool. Just 3-4 minutes walk to the beach at the end of the street.

More Info and Online Booking



Zula Breeze Destin FL

179 Miami St, Destin FL 32550
Sleeps 18 | 4 Bedrooms, 3 Bathrooms

Completely renovated house with a beautiful swim spa in the backyard. Can be heated like a hot tub or be used as a pool. Private beach access at the end of the street. Can sleep up to 18 people so great for larger groups. Can Also be rented together with Zula Cabana next door for even larger groups!

More Info and Online Booking

Zula Cabana Destin FL

191 Miami St, Destin FL 32550
Sleeps 14 | 3 Bedrooms, 2 Bathrooms

The next door house to Zula Breeze, Can also be rented together for large groups (up to 32 people). Beautiful front yard with firepit, fun front porch, 5 Minutes walk to the private beach access.

More Info and Online Booking

<https://www.zulabeach.com>



[More info and Online Booking](#)

Zula Siesta SPI, TX

112 E Mesquite St, South Padre Island, TX
Sleeps 16 | 4 Bedrooms, 4 Bathrooms

Are you ready for a South Padre Island getaway? Our first freshly remodeled vacation home in South Padre Island TX is now available! Awesome Large Private Heated Pool and Spa and just 2min walk to the beach down the street. BOOK TODAY!

[More info and Online Booking](#)

Zula Del Mar South Padre Island COMING SOON-ISH

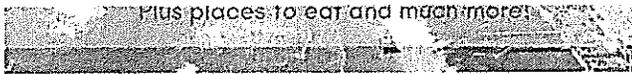
116 E Mars Ln, South Padre Island TX
Sleeps ? | 7 Bedrooms, 6 Bathrooms

Guess what? We're renovating another beach house is South Padre Island! More details coming soon...

[More info soon](#)

Check Out Our Blog





Favorite Things To Do And Where To Eat In South Padre Island, Texas

Favorite things to do in South Padre Island Texas from Vacation Homes owners, Plan the perfect beach vacation for your family

Favorite Things To Do, Places To Shop And Where to Eat In Destin Florida

Plan your Destin vacation like a pro! All the insider tips, the best deals & locals favorites in one easy to follow list with direct links

Watch Our Video Walkthroughs

Contact Us

Ask us anything! We're here to answer any questions you have.
Info@zulabeach.com | 850-534-6202

* This is a cell phone, we are EST, be considerate of time differences

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Name *

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September 1, 2021

TO: Board of Adjustments and Appeals (Zoning) City of South Padre Island

ATTN: Marta Martinez. Zoning Administrator

FROM: Irv and Pam Downing, 114 E Mars Ln 

SUBJECT: Petition of Lot Owners Supporting Appeal of Building Permit at Block 140 Lot 10,
September 7, 2021 Board meeting

Signed petition of property owners from Mars Ln. and Constellation Drive supporting the appeal, with summary sheet included.

This information is submitted as written comments for the Board of Adjustments hearing scheduled for September 7, 2021 at 9:00 AM.

Petition to The Board of Adjustments and Appeals (Zoning) for the City of South Padre Island regarding the Appeal of a Building Permit at 116 E. Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development under way at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-- Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Pamela Dawning	114 E. Mars Lane	(956) 433-9583	
Levine Dawning	114 E. Mars Lane	956 456-4277	
Lori Lewis	111 E. Mars Ln.	956-266-5987	
Colleen Gray	117 E. Constellation	956-459-0607	
Graydon Gray	117 E. Constellation	956-543-7764	
Beach-house on Mars LLC	117 A E. Mars Lane	303-909-1811	Per phone 1:00pm Sunday, August 29, 2021
Anthony Leffert + Melinda Cox			

Petition to The Board of Adjustments and Appeals (Zoning) for the City of
 South Padre Island regarding the Appeal of a Building Permit at 116 E.
 Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development underway at 116 E Mars Lane that would convert a single family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

NAME	ADDRESS	PHONE/EMAIL	SIGNATURE
ANTHONY LEFFERT	117 EAST MARS LANE A	303.909.1811 A.leffert@rwolaw.com	
MELINDA COX	117 EAST MARS LANE A	303.587.7788 MindySueGolden@gmail.com	

Petition to The Board of Adjustments and Appeals (Zoning) for the City of South Padre Island regarding the Appeal of a Building Permit at 116 E. Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development underway at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-- Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Mary Austin	119 E. Constellation	956-459-7343	Mary Austin
Richard Ehrlich	118 E MARS	956 572 2426	Richard Ehrlich
Dylan Ehrlich	118 E MARS	956 581 0120	Dylan Ehrlich
James Clark	129 E Mars	620-352-0001	James Clark

Petition to The Board of Adjustments and Appeals (Zoning) for the City of South Padre Island regarding the Appeal of a Building Permit at 116 E. Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development underway at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the *District "E" - Low Density Residential--Single-Family and Townhouse Dwelling District*.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Randal Caster	115 B E MARS	713-261-6237	
Stacy Caster	115 B E MARS	832-348-7286	

Petition to The Board of Adjustments and Appeals (Zoning) for the City of
 South Padre Island regarding the Appeal of a Building Permit at 116 E.
 Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development underway at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-- Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Michael McEwarz	112 E Mars Lane	210-213-6712 michele@mcwarz.com	<i>Michael McEwarz</i>
My family has owned this home since the early 1970s. I oppose any change to the current District "E" - Low Density Residential Single Family and Townhouse Dwelling District			<i>Michael McEwarz</i> 8-24-21

Petition to The Board of Adjustments and Appeals (Zoning) for the City of South Padre Island regarding the Appeal of a Building Permit at 116 E. Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development under way at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-- Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Jennifer L. Stout	120 A E. Mars Ln, SPI 78597	940.391.7316 jlstout11e@verizon.net	
Randolph W. Stout	120 A E. Mars Lane	940-390-1432 rstout@verizon.net	

Petition to The Board of Adjustments and Appeals (Zoning) for the City of South Padre Island regarding the Appeal of a Building Permit at 116 E. Mars Ln, Block 140 Lot 10

We, the undersigned residents and property owners of E. Mars Ln in South Padre Island, Texas and the surrounding neighborhood strongly object to a development under way at 116 E Mars Lane that would convert a single-family home into a structure that will accommodate up to 18 persons for short- and long-term rentals. The renovated use would violate the Sec. 20-10 of the City of South Padre Island zoning ordinance because the property is in the District "E" - Low Density Residential-- Single-Family and Townhouse Dwelling District.

We chose to live here because we felt that the City had set apart this residential area for low density treatment in order to preserve this area as a single-family neighborhood. That had particular importance to us because it allows us to enjoy our homes year-round as opposed to living next to party houses during certain times of the year. Denying this appeal would set a precedent for changing the character of our neighborhood through the issuance of a building permit rather than through action by the City Commission to amend the zoning ordinance. We therefore fully support the appeal currently before the City of South Padre Island on this matter filed on August 10, 2021.

Name	Address	Phone/Email	Signature
Ene delia Mora	127 E. Mars Ln 102	956-684-8987	
Rogelio Magaña	127 E. Mars Ln 102	956-241-1956	
Claudia Ethlich	118 E. Mars	956-551-0719	
Judy Larson	109 E Mars Ln	612-791-1800	Judy K Larson
Doug Szczech	109 E Mars Ln	651-338-3331	Douglas Szczech
PAULINE HINDSON	115 A EAST MARS	956-371-5813	
RICHARD HINDSON	" "	956-639-3935	

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JOHN P. "BUDDY" FRANKE
BOARD CERTIFIED
COMMERCIAL REAL ESTATE LAW
RESIDENTIAL REAL ESTATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

CAROLE K. BOYD

August 18, 2021

City of South Padre Island
Planning Department
Building Department
Board of Adjustment Appeals
4601 Padre Blvd.
South Padre Island, Texas 78597

Re: Erez Weinstein Construction Project
Stop Work Order

Dear Sirs and Madams:

As you know, our firm represents Erez Weinstein, whose work was stopped on the construction of his single family home at 116 E. Mars last Friday, August 13, 2021. The reason given for the stop work order was that an appeal was filed alleging that a permit for construction was erroneously issued as the intent of Mr. Weinstein was to make the building into a hotel or boarding house. Not only is the appeal itself improper, but the allegations asserted are unfounded and improper. The appeal request was made by Mr. Weinstein's neighbors through their attorney David Irwin.

The Ordinances for Zoning, and most particularly regarding Zone E regarding an appeal, do not apply to a third party but instead to an applicant who believes there was an administrative error **"in any order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance."** Sec. 20-16(G).

This appeal would therefore relate to a permit having been issued for construction.

There are three problems with this "appeal."

- 1) First and foremost, the applicant is not the owner or agent of the owner but a third party to which the Ordinances do not apply. Neighbors do not have standing to bring an appeal as it is not their premises nor permit to which they object. If this were allowed, any person having no connection to the construction project could immediately stop work on a project and cause significant damages, with impunity.
- 2) Pursuant to Sec. 20-16.2, there is a time for appeal of 30 days from the time the grievance (in this case a construction permit) was issued. It was months after the issuance of the permit to Mr. Weinstein (issued June 3, 2021) that this alleged "appeal" was submitted and therefore, even if valid, it is untimely.

3) Finally, Sec. 20-16-1(3) states that an applicant can postpone an appeal for up to 6 months. The result would be absurd if the applicant were not the homeowner or landowner who was trying for a variance, but a neighbor intent upon damaging another neighbor. Clearly, the "applicant" as set forth in the Ordinances must be the person who applied for the permit, and an appeal would exist when and only when this person was deemed by some authority to be in violation of the ordinances.

As previously discussed, serious and substantial damages are accruing daily, not just to Mr. Weinstein, but to his subcontractors who are out of work.

Accordingly, on behalf of Mr. Weinstein, demand is made that this improper and illegal "appeal" be declared null and void. Mr. Weinstein is not in violation of any ordinance, construction permit or inspection, and has complied with every legal facet of his construction project. He is taking a decrepit, non-conforming building and making it something special, converting what was an illegal tri-plex which was filthy and falling apart, into a single family home with one entrance, one kitchen, one meter for electricity, one less bedroom than previously existed, and new interior construction. This is an enhancement to the neighborhood, not a detriment.

I expect to hear that, upon review of your own ordinances and basic legal guidance, the City will not want to pursue this appeal, and rescind the stop work order immediately.

Very truly yours,



Carole K. Boyd
The Franke Law Firm, P.C.