

CASE # CL5-2010-0089  
ROW-10466397  
TP-0232040715

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

**WARNING: Filing of this appeal stops all affected construction activity.**

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 1901 Alegria

LEGAL DESCRIPTION: Subdivision – Burnet Heights

Lot(s) 15 Block C Outlot \_\_\_\_\_ Division \_\_\_\_\_

I Jim Bennett as authorized agent for Paul & Gloria DeVere

\_\_\_\_\_ affirm that on August 9 2010, hereby apply for a hearing before the Board of Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

A single-family dwelling providing a side street setback of 12ft. 5 inches  
in a SF-3-NP district. (Burnet Wood N.P.)  
(zoning district)

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. Please contact Christine Esparza with Austin Energy at 322-6112 before filing your application with the Board of Adjustment if your request is for a reduction in setbacks or height limits.

**NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.**

**VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:  
This is an older subdivision and most of the homes are built with less than a 15ft. setback. The side street setback that is being proposed is the same setback of the previous home that has been removed.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:  
the shape of the lot, and if the structure is moved over to provide the now required 15ft. setback, it would necessitate a side yard variance for the carport which would not line up with the existing drive.  
(b) The hardship is not general to the area in which the property is located because:  
This is a new home being built in an older subdivision that is attempting to comply with the subdivision requirements, and the general character of the homes in the area.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The building of this residence as proposed will not change the character of the neighborhood because most of the homes are built at a closer setback and the surrounding support the variance. Articulation is being provided for the structure and the setback increase along the Camino Real side of the property.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

\_\_\_\_\_

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

\_\_\_\_\_

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

\_\_\_\_\_

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

\_\_\_\_\_

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** -- I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Jim Bennett Mail Address 11505 Ridge Drive.

City, State & Zip Austin, Texas 78748

Printed Jim Bennett Phone (512)282-3079 Date \_\_\_\_\_

**OWNERS CERTIFICATE** -- I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed \_\_\_\_\_ Mail Address \_\_\_\_\_

City, State & Zip \_\_\_\_\_

Printed \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed *Gloria DeVere* Mail Address 5506 Avenue G

City, State & Zip Austin, TX 78751

Printed Paul & Gloria DeVere Phone 512-653-6923 Date 07/15/2010

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed *Gloria DeVere* Mail Address 5506 Avenue G

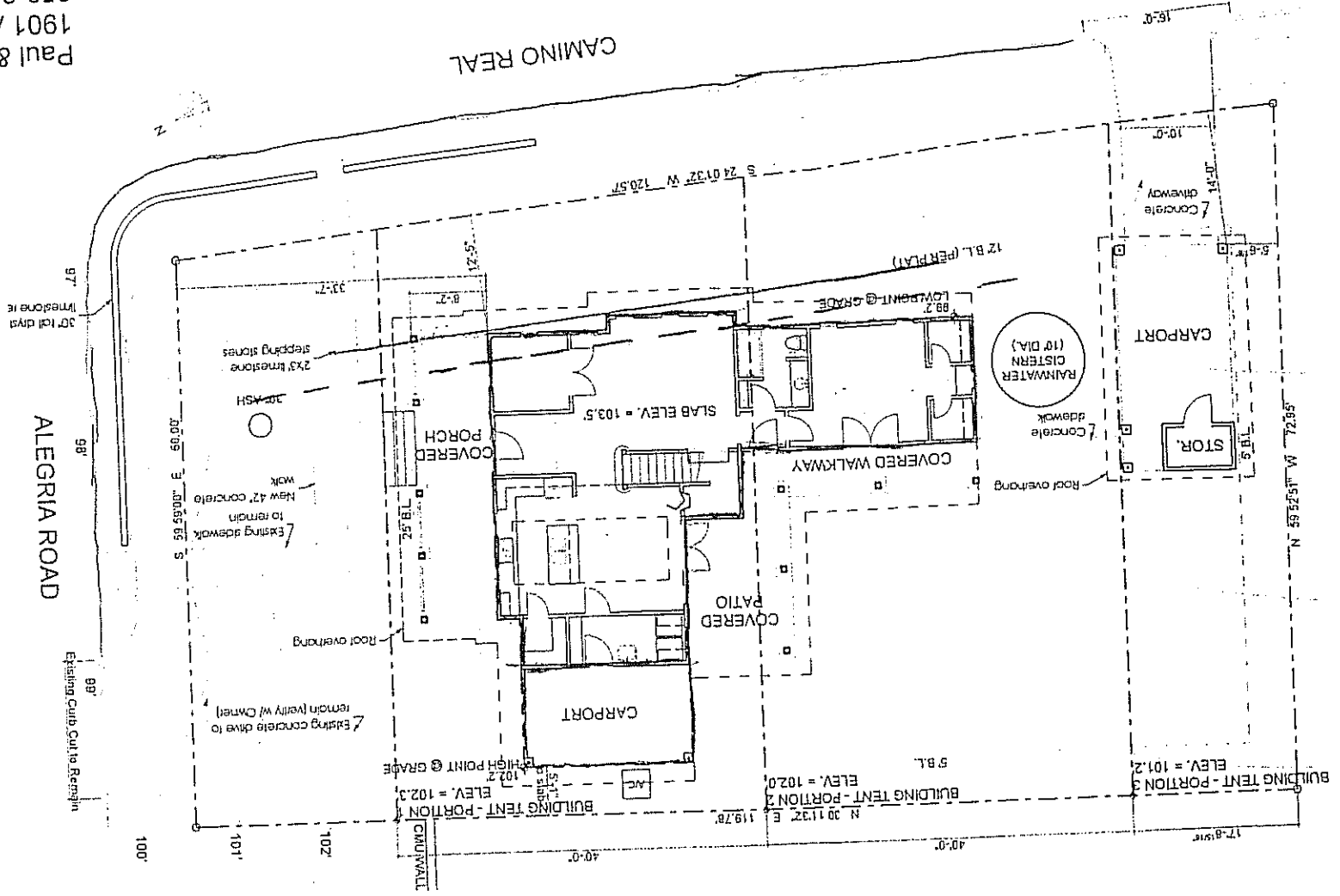
City, State & Zip Austin, TX 78751

Printed Paul & Gloria DeVere Phone 512-653-6923 Date 07/15/2010



*Proposed*

Paul & Gloria DeVere  
1901 Alegria  
653-6923



ALEGRIA ROAD

CAMINO REAL

Existing curb Cut in Remain

100'

101'

102'

40'-0"

40'-0"

17'-8" side

N 50'52" E 72.95'

S 24'01" W 120.57'

15'-0"

CARPORT

STOR.

COVERED WALKWAY

COVERED PATIO

CARPORT

COVERED PORCH

2'x3' limestone stepping stones

30" ASH

New 4" concrete to remain

Existing sidewalk

Roof overhang

Existing concrete drive to remain (per City w/ Owner)

BUILDING TENT - PORTION 1  
ELEV. = 102.3

BUILDING TENT - PORTION 2  
ELEV. = 102.0

BUILDING TENT - PORTION 3  
ELEV. = 101.2

5' S.L.

RAINWATER CISTERN (10' DIA.)

Concrete sidewalk

Roof overhang

LOW POINT @ GRADE

12' B.L. (PER PLAN)

97'

98'

99'

E 60'09" S 100'65" S

33'-7"

5'-2"

8'-2"

10'-0"

14'-0"

5'-8"

5'-11"

5'-11"

5'-11"

5'-11"

5'-11"

5'-11"

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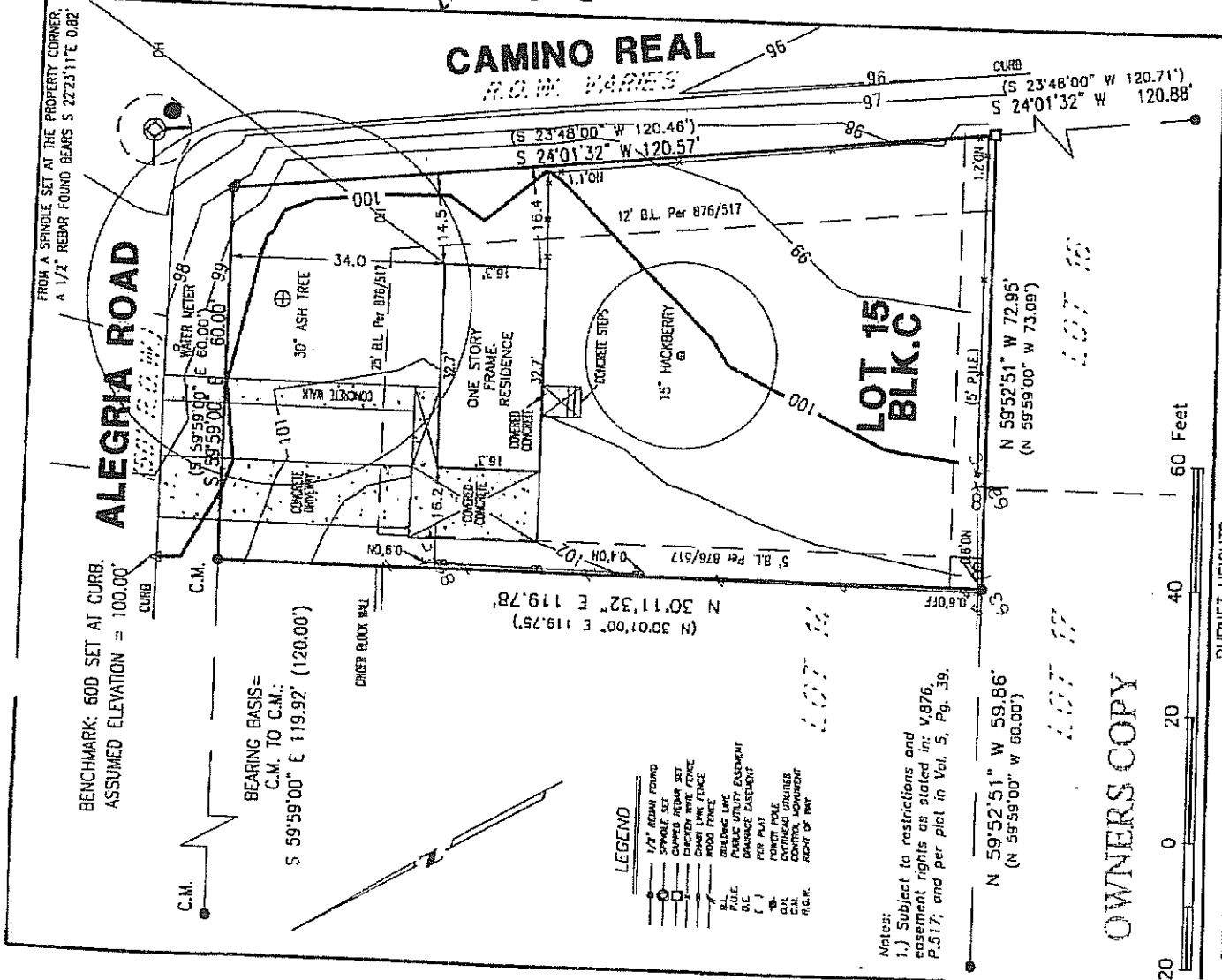
5'-11"

5'-11"

5'-11"

5'-11"

For Topo purposes only.

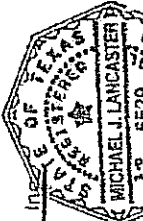


SUBMISSION: BURNET HEIGHTS

LOT: 15 BLOCK: C VOLUME: 5 PAGE: 39 PLAT RECORDS

COUNTY: TRAVIS STATE OF TEXAS STREET ADDRESS: 1901 ALEGRIA ROAD

CITY: AUSTIN REFERENCE NAME: PAUL DEVERE & GLORIA DEVERE



**Dewey H. Burris & Associates, Inc.**  
 Land Surveying Services  
 1404 West North Loop Blvd. 512-458-6969  
 Austin, Texas 78756 Fax 512-458-9845

THIS AREA IS NOT DEPICTED AS BEING IN A SPECIAL FLOOD HAZARD AREA PER FEMA'S FLOOD INSURANCE RATE MAP 0455H DATED 9-28-06. IT IS REPRESENTED AS IN ZONE X. HOWEVER AT PRESENT TIME NO ELEVATIONS, DRAINAGE, OR FLOOD STUDIES HAVE BEEN PERFORMED AND INFORMATION IS BASED SOLELY ON THE PRESENT MAP. THE SURVEYOR DOES NOT ASSUME RESPONSIBILITY AS TO ANY INFORMATION PROVIDED BY SNO MAP AS TO ANY INFORMATION THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE OF FLOOD DAMAGE, FOR FURTHER INFORMATION CONTACT YOUR FLOOD PLAN ADMINISTRATOR.

TO THE UNDERSIGNED AND / OR PRESENT OWNERS OF THE PREMISES SURVEYED AND TO GRACY TITLE A STEWART COMPANY

STEWART TITLE GUARANTY COMPANY  
 I DO HEREBY CERTIFY TO THOSE LISTED HEREON THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND, UNDER MY SUPERVISION, OF THE PROPERTY DESCRIBED HEREON, IS PREPARED IN ACCORDANCE TO THE TITLE COMMITMENT REFERENCED HEREON, AND THAT THERE ARE NO VISIBLE BOUNDARY LINE CONFLICTS, ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS, OR ROADS IN PLACE, EXCEPT AS SHOWN HEREON.

DATE	DESCRIPTION	BY	DATE
7-28-09	FIELD WORK	TK	7-28-09
7-28-09	DRAFTING	AW3	7-28-09
7-28-09	FINAL CHECK	ML	7-28-09
7-28-09	CORRECTIONS	AW3	7-28-09
	UP DATE		

# Petition for approval of building plans for 1901 Alegria, Austin, TX

We, the undersigned residents of the Brentwood Neighborhood, have reviewed the building plans proposed by Paul and Gloria DeVere for the lot at 1901 Alegria, Austin, TX. We support the plans in their current form, using a twelve foot (12") setback from Camino Real.

Name	Address	Signature
Kathryn A. Kenne	1700 Payne Ave	Kathryn A. Kenne
Alan Lippert	4905 Woodlawn	<del>Alan Lippert</del>
Nicki James	1410 Palo Duro Rd.	Nicki James
Allison Wagner	1900 Romana Dr	Allison Wagner
Kevin Wagner	1900 Romana Dr	Kevin Wagner
Adam Marx	2111 Montrose	Adam Marx
Roy D. Base	1808 Nebraska	Roy D. Base
Just Bramble	1900 Alegria Rd.	Just Bramble
Julie Sievers	1900 Alegria Rd.	Julie Sievers
Ivan Jackson	1903 Alegria Rd.	Ivan Jackson
Franzi Jackson	1903 Alegria Rd.	Franzi Jackson
Emily Kivela	1902 Alegria Rd.	Emily Kivela
Mitchell Hibbs	1902 Alegria	Mitchell Hibbs
Maureen Polkinghorne	1910 Alegria	Maureen Polkinghorne
Liz Franklin	1913 Alegria Rd	Liz Franklin

Not a resident



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Name	Address	Signature
Melanie Moy	2003 Romero Dr.	Melanie Moy
Dason Ford	1914 Alegria	[Signature]
Jill Barrett	1915 Alegria	[Signature]
Patrick Barrett	1915 Alegria	[Signature]
Tanner Wetmore	1816 Alegria Rd.	[Signature]
LATELIVING CONCEPT	1500 ALEGRIA RD	[Signature]
Julia Guenzler	1801 Alegria Rd.	[Signature]
Paul Schwedz	1707 Alegria Rd.	[Signature]
Arc Wang	1703 Alegria Rd.	[Signature]
Karen O'Keefe	1505 Romero Dr.	[Signature]
R. Cunningham	1911 Alegria Rd.	Ruth Cunningham
Park Gunn	2000 Alegria	[Signature]
Amy Erickson	1803 ALEGRIA	[Signature]
Donny Seward	1802 ALEGRIA RD	[Signature]
Tyler Moy	1901 Alegria	[Signature]

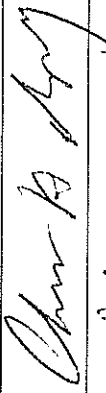






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Name	Address	Signature
FRANK CIGNINI (Rentier)	1907 Requena St	<i>Frank Cignini</i>
Lance Harbrett	1916 Requena St	<i>Lance Harbrett</i>
John Green	1912 Requena St	<i>John Green</i>
Erin Harnisch	1914 Requena St.	<i>Erin Harnisch</i>
Paul Youngdale	1910 Requena St	<i>Paul Youngdale</i>
Koch Mullen	1902 Requena St	<i>Koch Mullen</i>
Halle Brown	6307 Camino Real	<i>Halle Brown</i>
Scott Haeffel	1900 Requena St	<i>Scott Haeffel</i>
Steve Roterson	6304 Hall St.	<i>Steve Roterson</i>
Al Royce	6306 Hall St	<i>Al Royce</i>




# Petition for approval of building plans for 1901 Alegria, Austin, TX

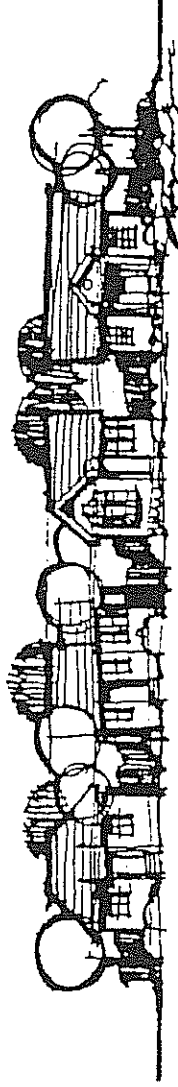
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Name	Address	Signature
CHARLES GARRETT	1906 ROMERIA	
Chris Steir	1904 Romeria	
Daniel Gaskell	1912 Romeria	
Elizabeth Smith	1910 ROMERIA	
Beth Feger	1804 Romeria	
Rachel Fagan	1800 ROMERIA	
ROBERT ROSENBLATT	1800 ROMERIA DR	

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Name	Address	Signature
Thomas Moore	1704 Pomeroy Dr.	
Corey Henderson	1709 Pomeroy Dr.	
James Rebe Alford	1707 Pomeroy	



## Brentwood Neighborhood Association

*Serving Our Neighborhood from 45th St. to Justin Lane and North Lamar to Burnet Road*

August 10, 2010

To: COA Board of Adjustment

Re: Variance Request at 1901 Alegria (Paul and Gloria Devere); Side Yard Setback Encroachment

Dear Board Members,

I am writing this letter on behalf of the Steering Committee of the Brentwood Neighborhood Association. As we have stated in previous correspondence with the Board, it has been our policy not to support variances except under the most extreme hardships.

It is our understanding in this case, that the Owners and Architect were given erroneous information about the street side yard setback from the Surveyor based on outdated plat notes. Apparently, neither the Owners nor the Architect checked current setback requirements under SF-3 zoning. Therefore, all design and documentation efforts took place using incorrect setback information. The plat indicated a 12 ft. building line on the street side yard (not the 15 ft. building line as required under current zoning/ordinance), so the final design encroaches into the required setback by up to 3 ft.

Our Steering Committee met with the Owners on August 4, 2010 at which meeting, Paul and Gloria Devere presented their request for a variance. They did not speak to a specific hardship (generally a requirement for our consideration of a variance), but it was apparent that they did not want to incur the time and expense of redesigning their project that was otherwise ready for permitting/construction. Our Committee took their request under consideration and while the vote was not unanimous, we did agree to support this variance for the following reasons:

1. The encroachment of the east wall of the residence and front porch is not significant in area.
2. The location of the proposed structure is consistent with older homes built along Camino Real (side street) that were constructed under original plat setbacks (12 ft).

So, in summary, while we find no compelling hardship, we support the variance as requested in that the proposed setback encroachment is minimal, does not adversely impact health, safety or welfare, and in our view will not be detrimental to the adjacent properties or surrounding area. Our support of this variance should not be used as a tacit approval of other variances in Brentwood. Your consideration is appreciated.

Sincerely,

Don Leighton-Burwell, AIA  
President, Brentwood Neighborhood Association

a corporation, and the owner and holder of said obligation, does hereby release and order cancel: of record the aforementioned deed of trust and all liens thereby created or extended:

IN WITNESS WHEREOF, this release is executed by the duly authorized and qualified officer of said Corporation with seal attached, on this 5th day of May 1946.

(Corp. Seal) FARM AND HOME SAVINGS AND LOAN  
ASSOCIATION OF MISSOURI

ATTEST: C. V. Kenton, Secretary  
By E. H. Busiek, President

STATE OF MISSOURI )  
COUNTY OF VERMION ) SS.

BEFORE ME, the undersigned authority, on this day personally appeared E. H. Busiek known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of the FARM AND HOME SAVINGS AND LOAN ASSOCIATION OF MISSOURI.

Given under my hand and seal of office, this the 5th day of May 1946.  
(Notary Seal) Harold D. Radke

Notary Public in and for Vernon County, Missouri.  
My Commission expires February 4, 1951.

Filed for Record June 25, 1948 at 11 A. M. --- Recorded June 25, 1948 at 1 P. M.

-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-

THE STATE OF TEXAS )  
COUNTY OF TRAVIS ) WHEREAS, L. L. McCandless has subdivided a certain tract of 41.07 acres out of the George W. Spear League in Travis County, Texas, into an Addition designated as Burnet Heights, the plat of said subdivision being recorded in Volume 5, at page 39, of the Plat Records of Travis County, Texas, and the said subdivider desires to impose uniform restrictions upon the major portion of said subdivision;

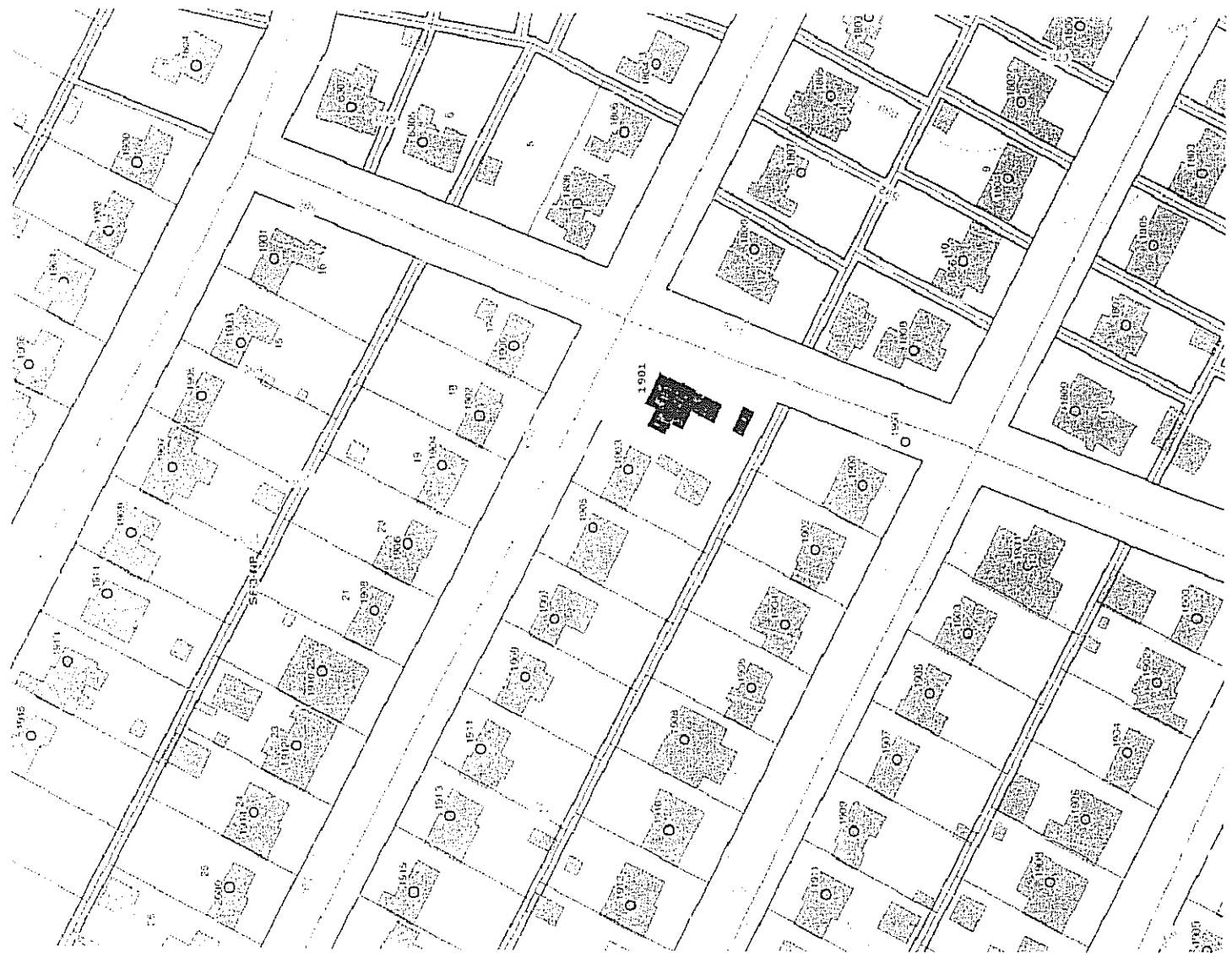
NOW, THEREFORE, I, L. L. McCandless, being the owner of said 41.93 acres so subdivided, do hereby declare that all residential lots in said subdivision shall be subject to the following restrictions;

1. All lots in the tract shall be shown and described as residential lots, except those portions of Blocks G and H lying westerly of the alley running Northerly and Southerly through said Blocks, said portions of Block-G and H being designated "Commercial" on said recorded plat.

2. No structures shall be erected, altered, placed, or permitted to remain on any residential building plot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than two cars.

No dwelling shall be located on any residential building plot nearer than twenty-five (25) feet to the front lot line nor nearer than twelve (12) feet to any side







Untitled

To: Jim Bennett  
784-4961 Cell  
282-0959 fax

From: Gloria & Paul Devere  
653-6923 Cell

Hello Jim,

I have attached a couple of pages that we might wanted to include in our packet.

- 1 - Updated site plan showing retaining wall and sidewalk.
- 2 - Elevations of the front and side of the house.
- 3 - Birds eye view of the neighborhood with our proposed house on it, demonstrating that it is consistent with other houses in the neighborhood.
- 4 - The 1948 plat document listing 12' sidewalk setback.
- 5 - The letter of support from the Brentwood Neighborhood Association. It does highlight that Don does not see a hardship, but I don't think he would modify the letter if we asked him to soften that. Any thoughts on what to do here, or is it okay?

Below are the dimensions of different points on the site plan.

- Front of Porch to front Prop. Line = 25'-5"
- Front corner of Living to side prop. line = 12'-4"
- Back corner of Living to side prop. line = 13'-9"
- Back corner (SE) of house to side prop. line = 18'-0"
- Back corner of house to rear prop. line = 33'-3"

I've also included the dimensions of sidewalk setbacks along Camino Real.  
(Calculated using Google Earth 11/25/2009 image maps.)

1901 Pequeno	15	15	6307 Camino Real
1900 Alegria	8	15	6305 Camino Real
		8	1808 Alegria
1901 Alegria		22	1809 Alegria
1900 Romeria	13	15	1808 Romeria
1901 Romeria	10	5	1809 Romeria
1900 Alguno	6	6	1808 Alguno
1901 Alguno	15	16	1809 Alguno

I will give Susan the additional signature pages in the next few days.

would it be helpful to have letters of support from the two neighbors with whom we share fence lines? would it be helpful to see if they can come to the 09/13 BOA mtg?

Please let us know if there is any other information you need on this.

Thanks!  
--gloria & paul