

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

*Amended  
Application*

CASE #

*CL5-2011-0117*

ROW #

*10661044*

TP-

*030001-08-02*

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: 205 The Circle, Austin, TX 78704

LEGAL DESCRIPTION: Subdivision – Lot3\*Kirschner Resub 10 Fairview Park

Lot(s) 3 Block 10 Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Dianne & William Harbeson on behalf of  
myself/ourselves as authorized agent for

205 The Circle affirm that on  
December 12, 2010

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

☒ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☐ MAINTAIN

(1) Request a variance to decrease the minimum front street setback requirement of Sec 25-2-492(D) from 25 feet to 6.5 feet in order to erect a carport for a single family residence in an SF-3-NCCD-NP Family Residence-Neighborhood Conservation Combining District-Neighborhood zoning district (CARPORT TO REMAIN OPEN)

(2) Request variance to extend existing backyard deck to fence line

(3) Request variance to reduce 2 parking spaces to one parking space due to garage conversion

in a Neighborhood Conservation Combining District-Neighborhood Plan zoning district  
district.

(zoning district)

**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:  
(1)The unique features of the property, combined with zoning regulation of a 25ft setback for building line, does not allow for expansion of the structure.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:  
(1)The subject lot is extremely small, subdivided from original lot, combined with the location oak trees on lot, provides no alternative to converting the garage and building a carport.  
(2) The space between the rear deck and the fence/property line does not allow for proper protection of the root system of the heritage oak tree.  

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(b) The hardship is not general to the area in which the property is located because:

Lot size is not typical in the neighborhood and the location of the 3 heritage oak trees .

**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 only structure to the west of the subject property 200 Park Lane is a duplex with parking accessible from Park Lane. The driveway for the subject property, is on the west side of the lot and is separated from the 200 Park Lane property by a retaining wall, chain link fence and vegetation. The owner of 200 Park Lane has been advised of the planned construction of the carport and does not object to it construction and granting of a variance.

The structure to the east of the subject property, 207 The Circle, is a triplex with parking in front. Separating this property and the proposed construction is vegetation planted on the east property line. The property owner has been advised of the planned construction of the carport and does not object to the construction and granting of a variance.

The property located at the corner of Drake and The Circle has an entrance from The Circle. The proposed carport cannot be seen from this property due to distance and vegetation. The owner of that property has been advised of the requested variance and has not notified the undersigned of any objection.

200 The Circle is a residence. The owner, who was the former president of the neighborhood association, has been advised of the proposed construction of the carport and has advised that she does not object to the construction of the carport or granting of the variance. The proposed structure will not be visible from 200 The Circle due to distance and vegetation.

At 110 The Circle is a bed and breakfast. The Board of Adjustment approved a reduced setback for the construction of this property. The owners of the property do not oppose the construction of the carport and granting of the variance. The proposed structure will not be visible from 110 The Circle because of distance and vegetation.

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**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:
  - (1) Both of the applicant's vehicles have been parked in the driveway
  - (2) Both applicant's vehicles can be parked within the existing property line.
  - (3) There are no residences across the street from the subject property and although it has never been necessary, applicants can park across the street if there were no spaces in the front of the applicant's property. There is an abundance of street parking on The Circle due to the a two block fenced wooded easement that belongs to the State House apartments located adjacent to the subject property.

The easement serves as a buffer between the apartments and the residents on The Circle.

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:

- (1) Applicant can park both vehicles on the driveway.  
(2) There are no residences across the street from the subject property and there is sufficient parking on the street in question.

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

- (1) Applicants can park both vehicles on the driveway.  
(2) There is sufficient parking both in front and both sides of the street adjacent to subject property.

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

The variance should run with the site.

**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 \_\_\_\_\_ Mail Address 205 The Circle, Austin, TX  
78704

Printed \_\_\_\_\_ Phone 512-462-1353 Date  
11/28/11

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

## **GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT**

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

### **VARIANCE REQUIREMENTS:**

#### **General Requirements:**

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

**SUBMITTAL REQUIREMENTS:** (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
- (4) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.
- (5) Austin Energy approval

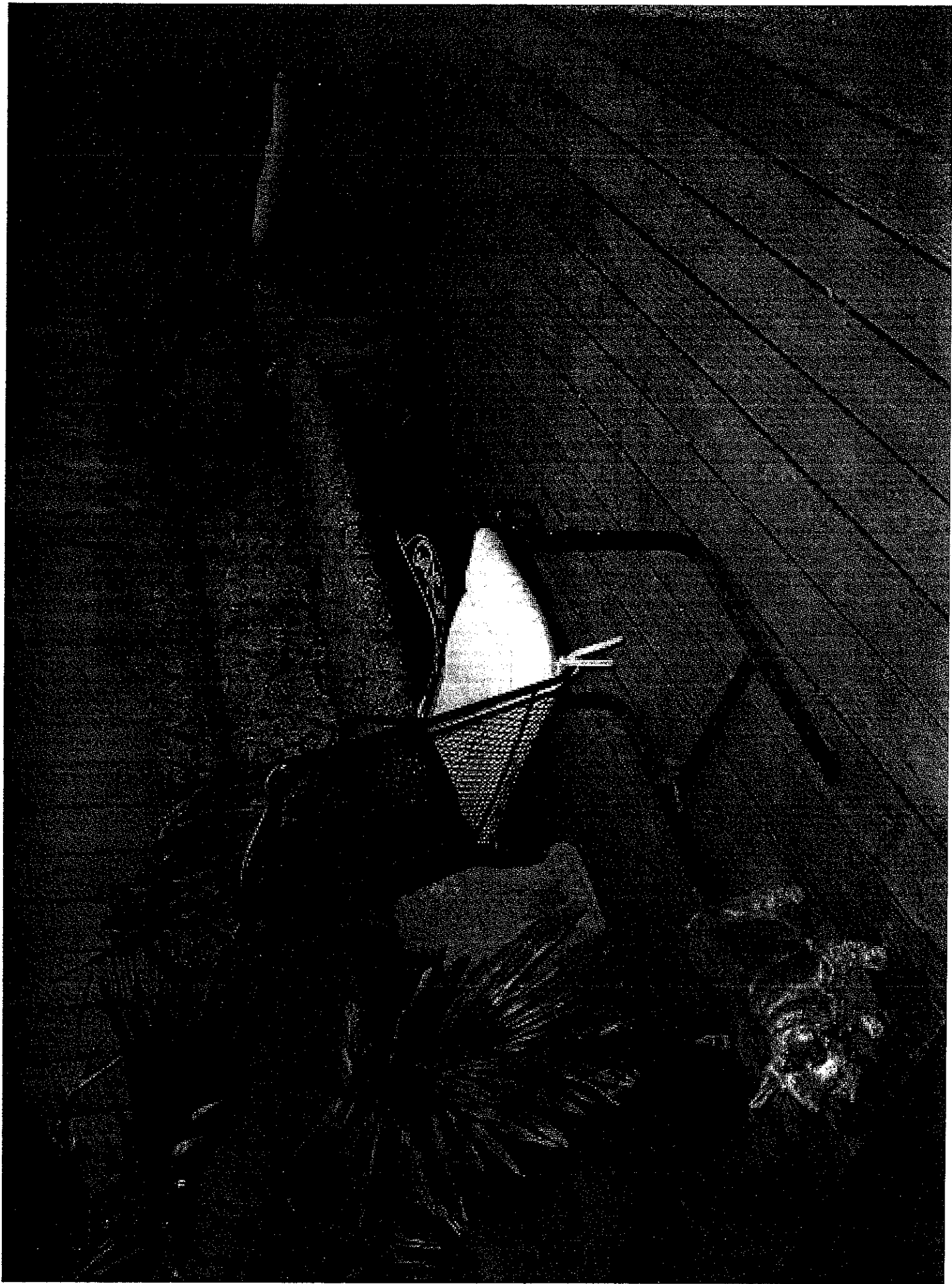
Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

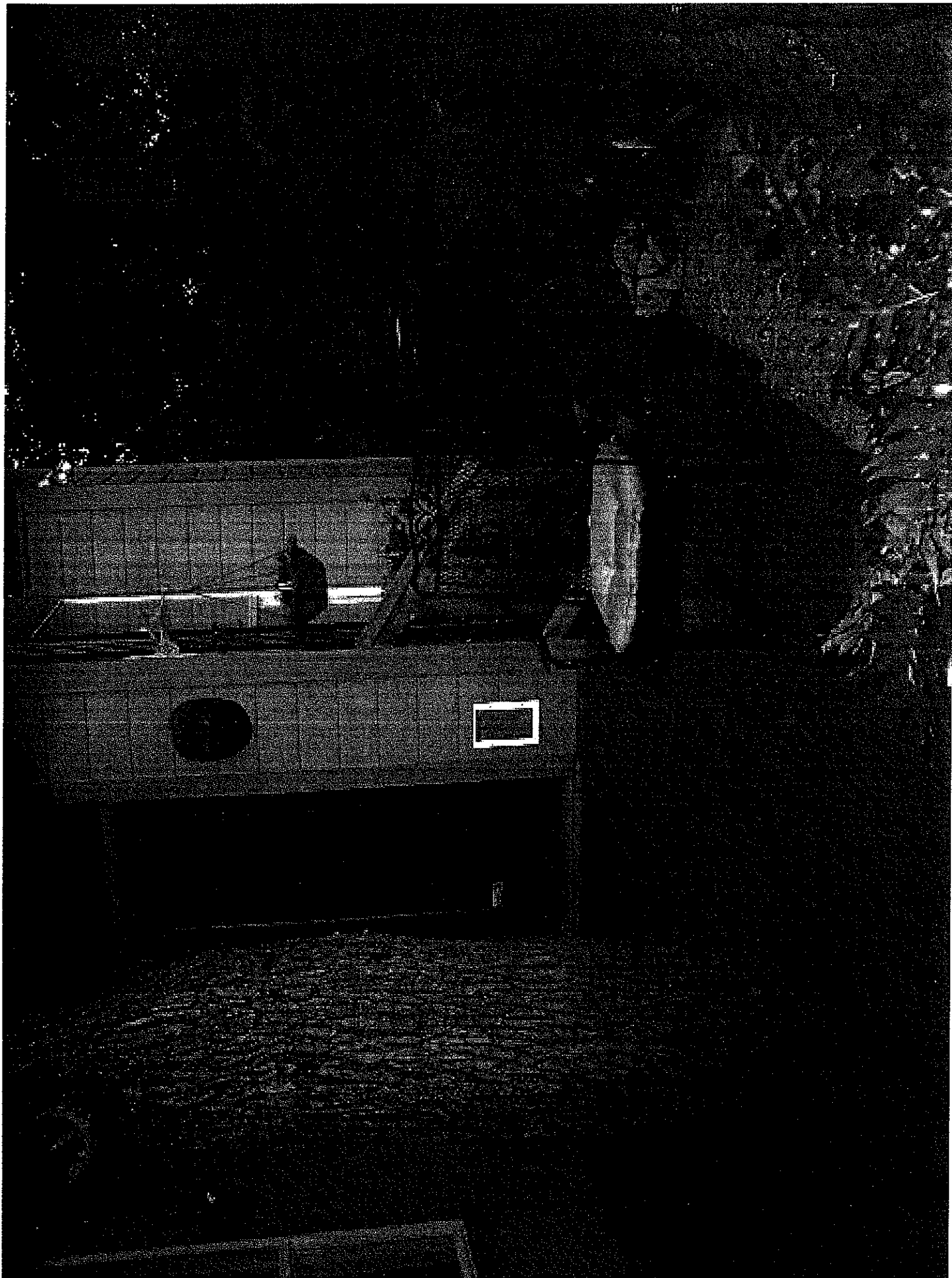
**REQUIRED FINDINGS:** All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

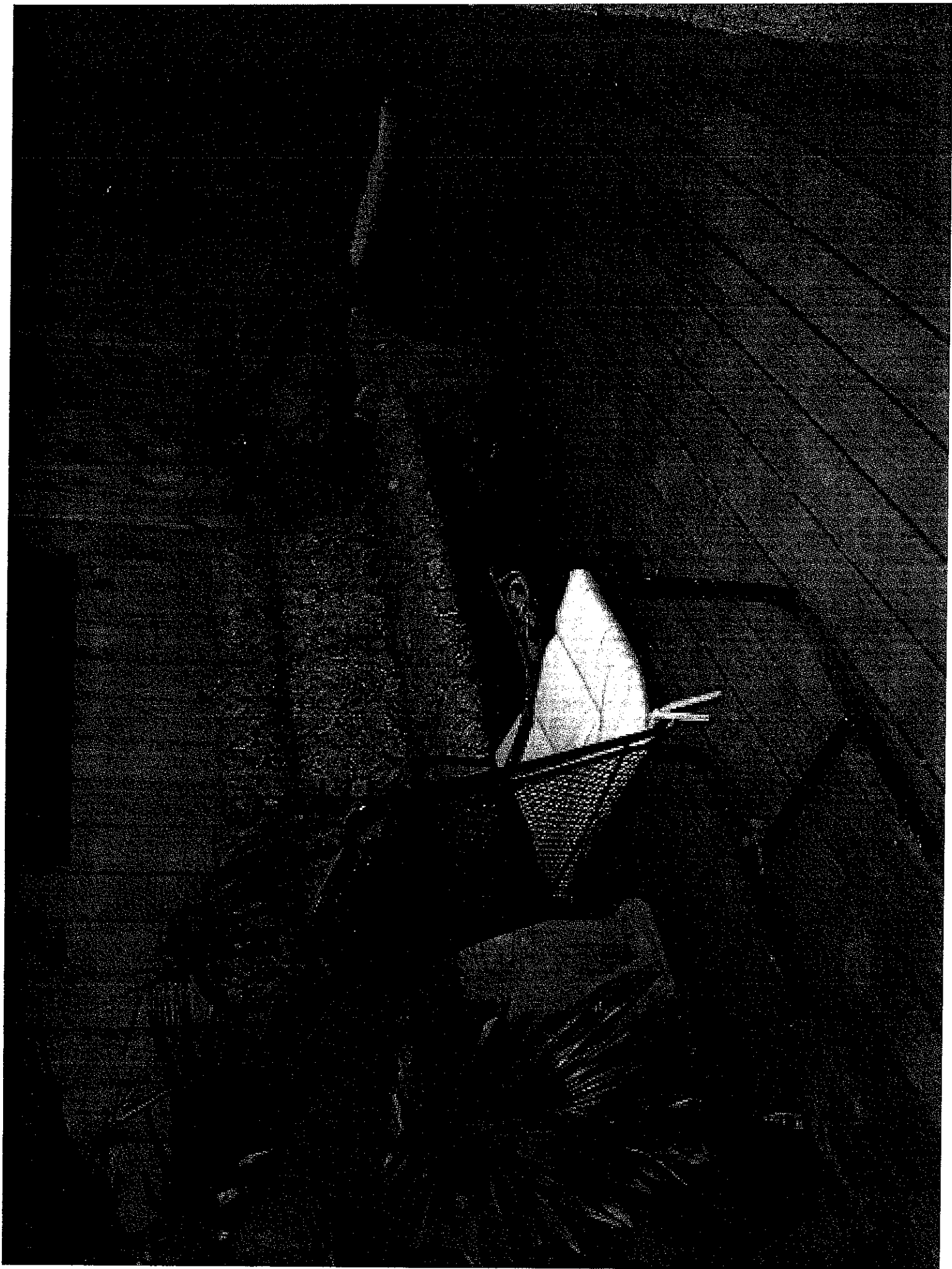
#### **Reasonable Use:**

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

#### **Hardship:**









**Walker, Susan**

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**From:** Dianne Harbeson [dharbeson@austin.rr.com]  
**Sent:** Monday, November 28, 2011 9:34 PM  
**To:** Walker, Susan  
**Subject:** RE: Application for variance  
**Attachments:** Amended BOA Application 7-31-08 Version.doc; CIMG2766.JPG; CIMG2768.JPG; CIMG2770.JPG

Susan,  
Attached is the BOA form filled out. I had difficulty manipulating the online form. I tried to delete the extra lines but the program would not let me. I'm assuming we will attach the new form to the original one.

I left the language the same as "proposed construction" of the carport. I really didn't know what to do with this since the carport has already been built. If you think I should change the language to read that the carport has been built, please let me know.

Attached are photos I took tonight of the deck. My husband measure 78 inches from where the original edge of the deck stopped to the fence/property line. He measure 34 inches on the right side of the deck. The leg of the patio chair nearest the fence in photo 2766 is where the original deck stopped and where we added decking. You can also see in photo 2766 the left side of the deck is wider than the right side due to the angle of the property line. In Photo 2768 you can see the oak tree and see how close it is to our house. Photo 2770 is taken from our back door looking out.

Please let me know if you have questions or you need additional information from me.

Once again, thanks so much for help!  
Dianne

Dianne Harbeson, Realtor  
GRI,SFR,Arbitrator  
Keller Williams Realty  
512-444-2400 Office  
512-797-3838 Cellular  
512-807-1359 Fax  
dharbeson@austin.rr.com

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**From:** Walker, Susan [mailto:Susan.Walker@austintexas.gov]  
**Sent:** Monday, November 28, 2011 4:23 PM  
**To:** Dianne Harbeson  
**Subject:** Application for variance

Here is the application you have already submitted.

**Susan Walker**  
**Senior Planner**  
**Planning & Development Review Department**  
**Phone: 512-974-2202**  
**Fax: 512-974-6536**

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**From:** OTC01OlmosPark@ci.austin.tx.us [mailto:OTC01OlmosPark@ci.austin.tx.us]  
**Sent:** Monday, November 28, 2011 4:31 PM  
**To:** Walker, Susan  
**Subject:** Attached Image

11/29/2011

# Waterloo Surveyors Inc. SURVEY PLAT

J10104A

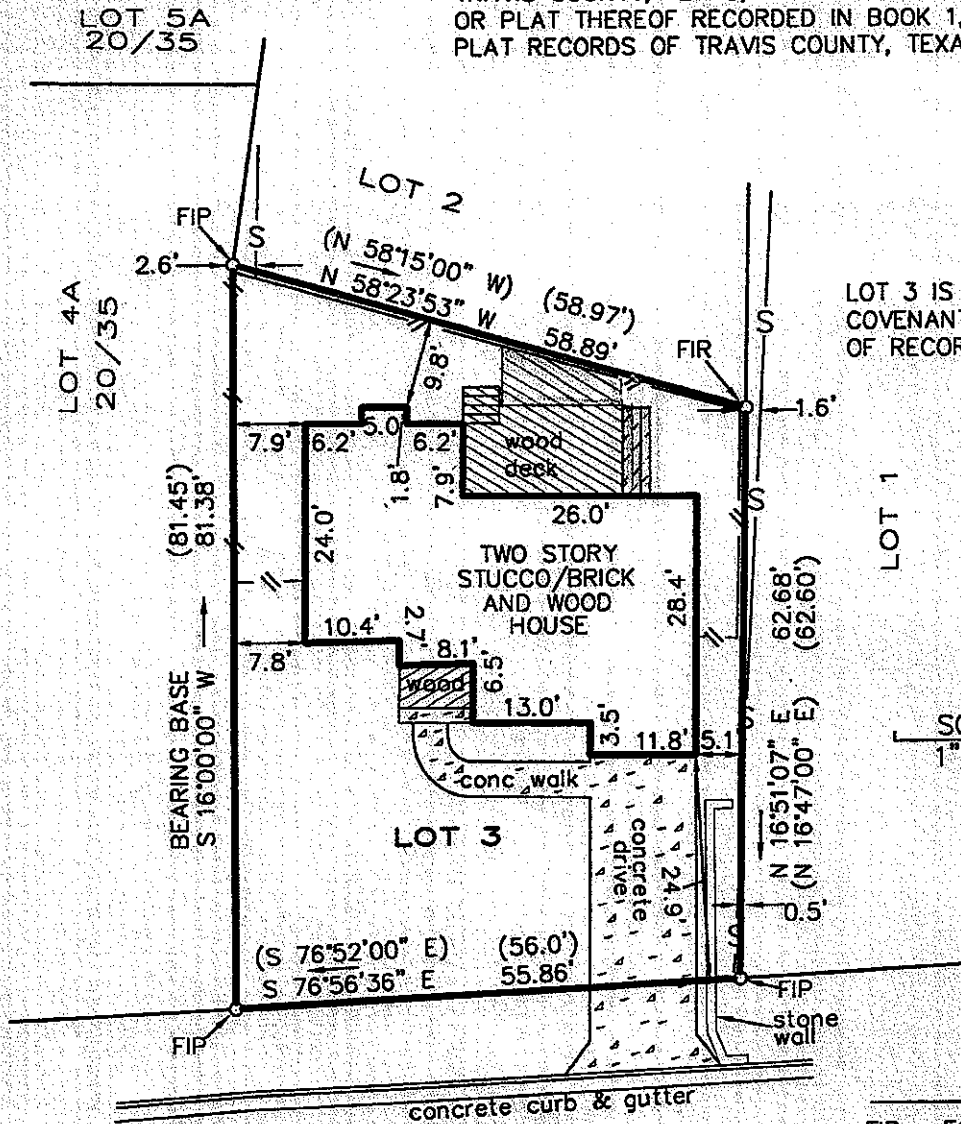
OWNER:  
DIANE HARBESON AND  
WILLIAM HARBESON

ADDRESS:  
205 THE CIRCLE

## LEGAL DESCRIPTION:

LOT 3, RE-SUBDIVISION OF BLOCK TEN, FAIRVIEW  
PARK, A SUBDIVISION IN THE CITY OF AUSTIN,  
TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP  
OR PLAT THEREOF RECORDED IN BOOK 1, PAGE 40,  
PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

LOT 3 IS SUBJECT TO RESTRICTIVE  
COVENANTS AND EASEMENT RIGHTS  
OF RECORD.



SCALE  
1"=20'

## LEGEND

FIR FOUND IRON ROD  
FIP FOUND IRON PIPE

C15-204-017

**CITY OF AUSTIN  
BOARD OF ADJUSTMENT/SIGN REVIEW BOARD  
DECISION SHEET**

☒ Y Greg Smith  
☒ Y Barbara Aybar  
☒ Y Bryan King  
☒ Y Leane Heldenfels, Vice Chair  
☒ Y Frank Fuentes, Chair  
☒ Y Betty Edgemond (2<sup>ND</sup>)  
☒ Y Michael von Ohlen (1<sup>ST</sup>)

DATE: 11/13/2006

CASE NUMBER: C15-06-147

APPLICANT: W.P. AND DIANNE HARBESON

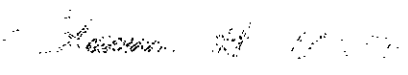
ADDRESS: 205 THE CIRCLE

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 6.5 feet in order to erect a carport for a single-family residence in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (CARPORT TO REMAIN OPEN)

**BOARD'S DECISION:** GRANTED 7-0

**FINDINGS:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:  
The unique feature of property, combined with zoning regulation of a 25ft set back for building line, do not allow for any expansion of the structure.
2. (a) The hardship for which the variance is requested is unique to the property in that:  
Lot is extremely small, subdivided from original lot, combined with oak trees on lot, provide no alternative to converting the garage and building a carport.  
(b) The hardship is not general to the area in which the property is located because:  
Lot size is not typical in neighborhood, location of mature oak trees.
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 only structure to the west of the property in question is the duplex with parking area accessible from Park Lane, owner does not object in granting the variance.

  
\_\_\_\_\_  
Tammie Williamson, Executive Secretary

  
\_\_\_\_\_  
Frank Fuentes, Chairperson

CASE #

C15-2011-0117

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

TP-0300010802

ROW-10661044

STREET ADDRESS: 205 The Circle, Austin, Texas 78704

LEGAL DESCRIPTION: Lot 3, "Kirschber Resubdivision Block Ten, Fairview Park.

Dianne and William Harbeson, owners and occupants of the above described property, affirm that on 17 September 2006, we are hereby applying for a hearing before the Board of Adjustment for consideration to:

ERECT AN OPEN-SIDED CAR PORT ON THE EXISTING DRIVEWAY, WHICH WILL EXTEND 18.5 FEET BEYOND THE BUILDING LINE.

in a SF3 zoned zoning district.

SF-3-NCCD-NP

6.5' from the front property line

A submission has been made to Christine Esparaza of the Electric Utility as the request for variance is for a reduction of setback.

Wood deck -

**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.

from JPL

E parking variance

**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings:

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The unique features of the property, combined with the zoning regulation of a 25 foot set back for the building line, do not allow for any expansion of the structure. The lot is 55.94 feet wide and 62.75 feet long on the east side and 81.45 feet long on the west side. The east side of the structure is 7 feet 8 inches from the fence and the west side of the structure is 5 feet from the fence/property line. The back yard is 10 feet deep at the southwest corner of the structure and 16.5 feet deep at the southwest corner of the structure. There are four large oak trees on the property, with two of these trees positioned at the only two available locations for expansion. The 24-inch diameter oak tree in the back of the structure is 54 inches from the structure. The 36 inch diameter oak tree at the front of the structure is 12 inches from the front of the structure.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

The lot is extremely small, having been subdivided from an original lot, which ran from Park Lane to the Circle. The small lot size, combined with the mature oak trees on the lot, provide no viable alternative to converting the garage into a first floor bedroom and building a carport for the homeowners' vehicle on the existing driveway.

- (b) The hardship is not general to the area in which the property is located because:

The lot size is not typical of the neighborhood and the location on the lot of mature oak trees, which were preserved at the time of construction and should be preserved into the future.

### **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 only structure to the west of the property in question is a duplex, 200 Park Lane, with the parking area accessible from Park Lane. The driveway for 205 The Circle is on the west side of the lot and is separated from the 200 park Lane Property by a retaining wall, a chain link fence and vegetation. The owner of the property at 200 Park Lane has been advised of the planned construction of the carport and does not object to its construction and granting of a variance.

The structure to the east of the property, 207 The Circle, is a triplex with parking in front. Separating this property and the proposed construction is vegetation planted on the east property line. The property owner of the property to the east has been advised of the panned construction of the carport and does not object to its construction and granting the variance.

There is a property located at the corner of Drake and The Circle with the entrance to that property on Drake. The owner of that property has been advised of the requested variance and has not notified the undersigned of any objection.

There are no residences across the street from the property in question. There exists a naturally vegetated easement and fence for a large apartment project, which has its entrance on Congress Avenue.

At 200 The Circle is a residence. The owner, who is president of the neighborhood association, has been advised of the proposed construction of the carport and has advised that she does not oppose granting the variance. The proposed structure will not be visible from 200 The Circle because of distance and vegetation. At 110 The

Circle there is a vacant lot, which has been approved for construction of a bed and breakfast. The Board of Adjustment has earlier approved a reduced set back for this planned construction. The owners of that property have been advised of the proposed construction and are not in opposition to the requested variance. The proposed structure will no be visible from 110 The Circle because of distance and vegetation.

The owners of the properties at 1305, 1307 and 1309 The Circle have advised that they are not opposed to the granting of the variance.

The character of the neighborhood, in general, is very eclectic and there already exist a number of structures and additions which, when built, constitute variances from the zoning regulation at issue. These structures and additions have been constructed on properties with larger lots and on lots not having the hardship of the existing live oak trees characterizing the lot in question.

The planned structure will not extend the footprint of the structure on the lot and will be architecturally compatibles with the existing home. Furthermore, it is anticipated that the existence of the structure will be more environmentally friendly as rain will be diverted to the land and/or a rain collection system, instead of running down the existing driveway to the street.

In conclusion, this variance is sought only because there is no viable alternative to the property owner and is not intended or expected to undermine the purpose of the zoning regulation.

**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 /S/ W. P. and Dianne Harbeson

Mail Address: 205 The Circle, Austin, Texas 78704.

Phone: 789-9360 (cellular)  
462-12353 (home)  
416-4882 (work)

*2(b) The hardship is not general to the area in which the property is located because:*

The small lot size and particular location of mature oak trees on the lot is not typical of the area in which the property is located.

**AREA CHARACTER:**

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

The only structure to the west of the property in question is a duplex, 200 Park Lane, with the parking area accessible from Park Lane. The driveway for 205 The Circle is on the west side of the lot and is separated from the 200 Park Lane Property by a retaining wall, a chain link fence and vegetation. The owner of the property at 200 Park Lane has been advised of the planned construction of the car port and does not object to its construction and granting of a variance.

The structure to the east of the property, 207 The Circle, is a triplex with parking in front. Separating this property and the proposed construction is vegetation planted on the east property line. The property owner of the property to the east has been advised of the planned construction of the car port and does not object to its construction and granting the variance.

There is a property located at the corner of Drake and The Circle with the entrance to that property on Drake. The owner of that property has been advised of the requested variance and has not advised the undersigned of any objection.

There are no residences across the street from the property in question. There exists a naturally vegetated easement and fence for a large apartment project which has its entrance on Congress Avenue.

At 200 The Circle is a residence. The owner, who is president of the neighborhood association, has been advised of the proposed construction of the car port and has advised that she does not oppose granting the variance. The proposed structure will not be visible from 200 The Circle because of distance and vegetation. At 110 The Circle there is a vacant lot which has been approved for construction of a bed and breakfast. The Board of Adjustment has earlier approved a reduced set back for this planned construction. The owners of that property have been advised of the proposed construction and are not in opposition to the requested variance. The proposed structure will no be visible from 110 The Circle because of distance and vegetation.

The owners of the properties at 1305, 1307 and 1309 The Circle have advised that they are not opposed to the granting of the variance.

The character of the neighborhood, in general, is very eclectic and there already exist a number of structures and additions which, when built, constitute variances from the

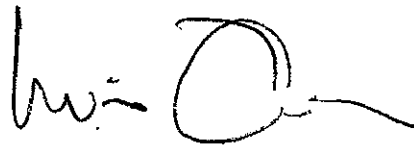
**Re: REQUEST FOR VARIANCE AT 205 THE CIRCLE, AUSTIN TEXAS 78704**  
**Page 3 of 3**

zoning regulation at issue. These structures and additions have been constructed on properties with larger lots and on lots not having the hardship of the existing live oak trees characterizing the lot in question.

The planned structure will not extend the footprint of the structure on the lot and will be architecturally compatible with the existing home. Furthermore, it is anticipated that the existence of the structure will be more environmentally friendly as rain will be diverted to the land and/or a rain collection system, instead of running down the existing driveway to the street.

In conclusion, this variance is sought only because there is no viable alternative to the property owner and is not intended or expected to undermine the purpose of the zoning regulation.

Please contact the undersigned should the Board or the City staff have any questions regarding this request.



William P. and Dianne L. Harbeson  
205 The Circle  
Austin, Texas 78704  
462-1353 (Home)  
416-4882 (Work)  
789-9360 (Cell)  
[billharb@austin.rr.com](mailto:billharb@austin.rr.com)

Enclosures:

Survey Plat of 205 The Circle  
Property diagram with proposed location of car port and oak trees.  
Neighborhood plat map with 205 The Circle highlighted.  
Sample of Letter sent to neighbors  
Responses received from neighbors.





SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2011-0117  
LOCATION: 205 THE CIRCLE



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

OWNER:  
DIANE HARBESON AND  
WILLIAM HARBESON

ADDRESS:  
205 THE CIRCLE

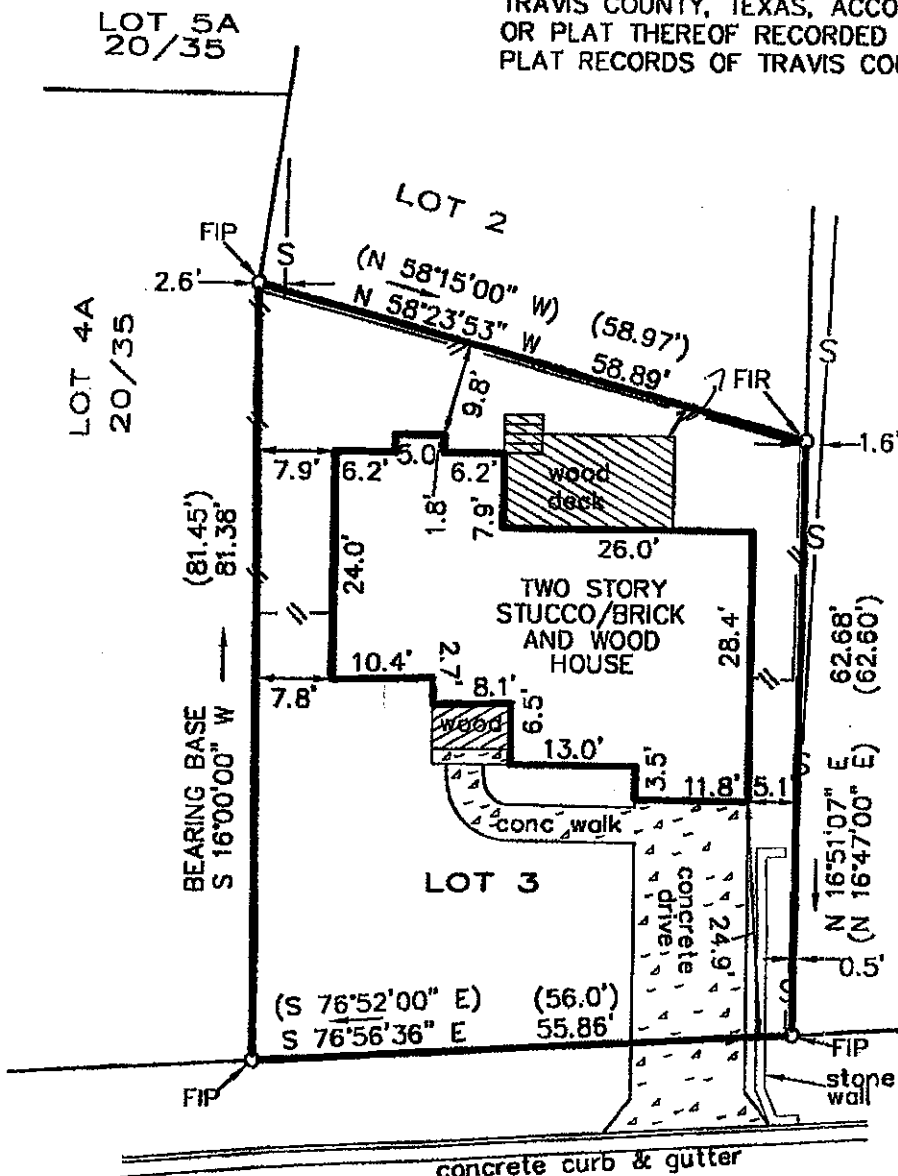
# Waterloo Surveyors Inc. SURVEY PLAT

J10104A

## LEGAL DESCRIPTION:

LOT 3, RE-SUBDIVISION OF BLOCK TEN, FAIRVIEW PARK, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 1, PAGE 40, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

LOT 3 IS SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENT RIGHTS OF RECORD.

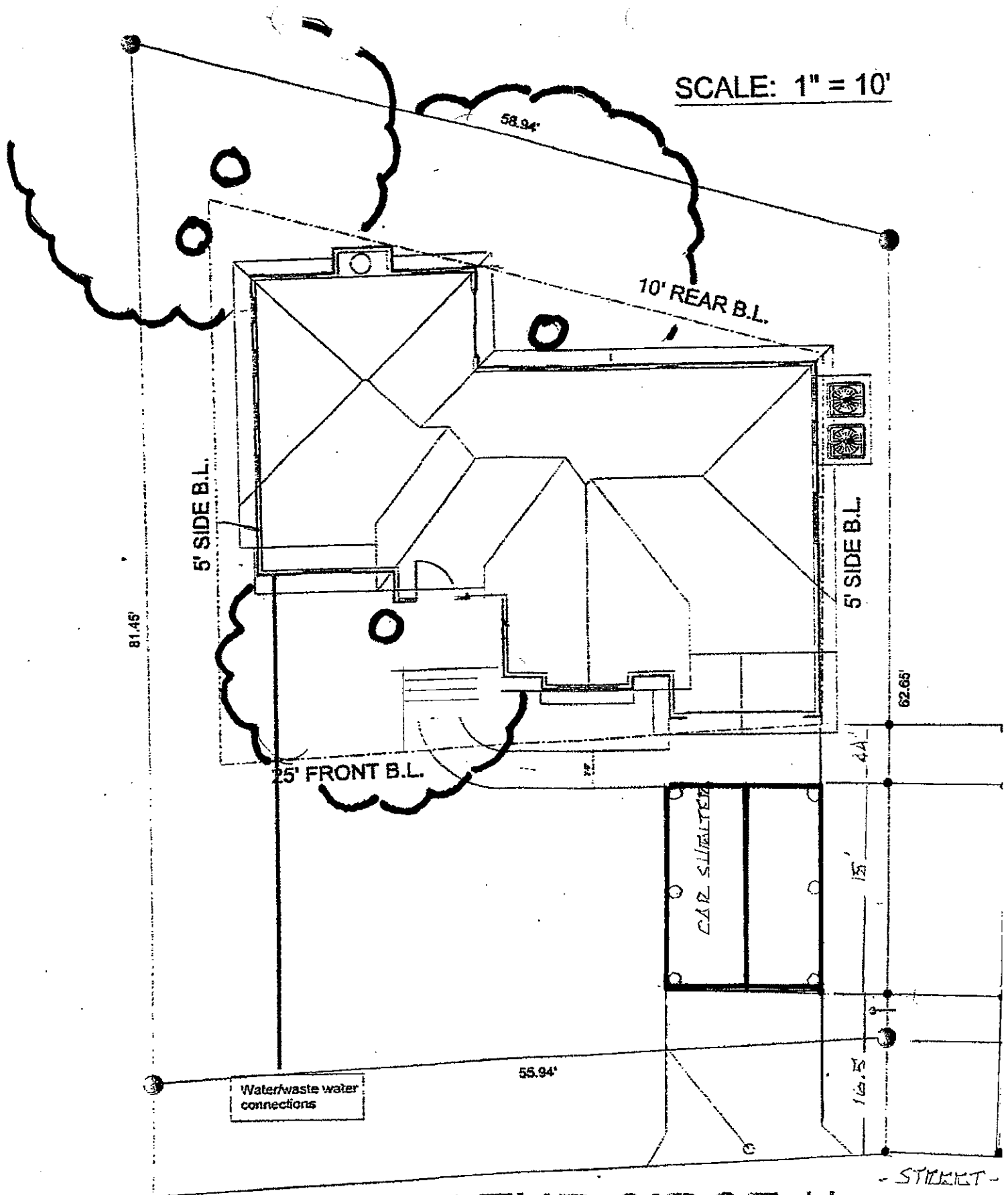


*THE CIRCLE*

## LEGEND

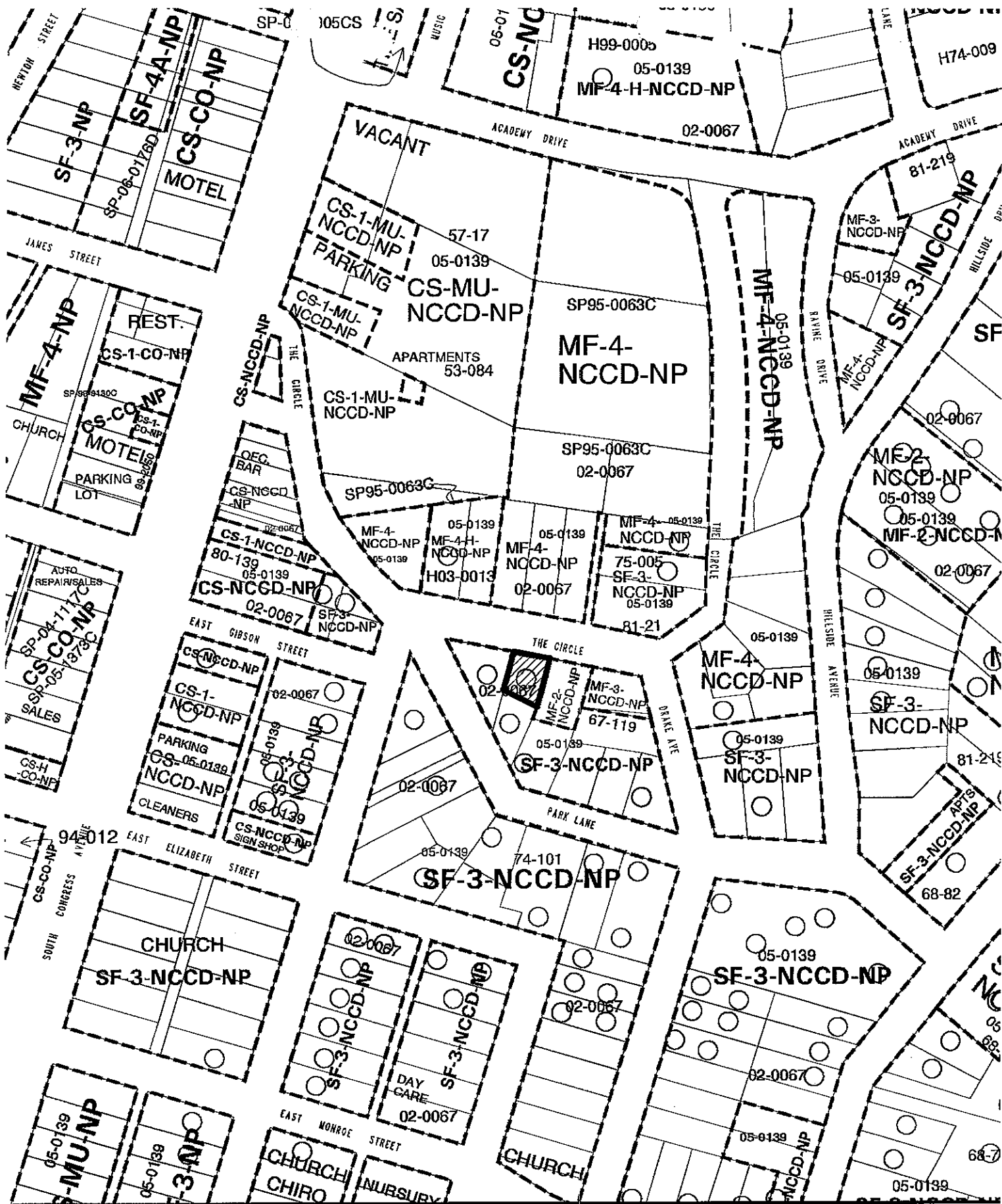
FIR FOUND IRON ROD  
FIP FOUND IRON PIPE  
CHAIN LINK FENCE —S—S—  
WOOD FENCE —◇—◇—◇—




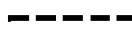
"TO THE LIEN HOLDERS AND/OR THE  
OWNERS OF THE PREMISES SURVEYED  
AND TO FIDELITY NATIONAL TITLE



**\*\* 205 THE CIRCE \*\***

**LOT 3, RESUBDIVISION OF  
BLOCK TEN, FAIRVIEW PARK**



 1" = 200'	SUBJECT TRACT 	<b>BOARD OF ADJUSTMENTS</b> CASE #: C15-06-147 ADDRESS: 205 THE CIRCLE SUBJECT AREA (acres): N/A		CITY GRID REFERENCE NUMBER J20
	PENDING CASE 			
	ZONING BOUNDARY 	DATE: 06-10		
	CASE MGR: S. WALKER	INTLS: SM		

Dianne and Bill Harbeson  
205 The Circle  
Austin, Texas 78704  
(512) 462-1353

July 3, 2006

Charles Christopher Rhett  
1305 The Circle  
Austin, Texas 78704

Re: Request for Variance

Dear Mr. Rhett:

We are the owners of the house at 205 The Circle. The house is approximately 1734 square feet with the bedrooms on the second floor. The lot is 59 feet across the front and 81 feet deep on the longest side. The house was built in between two large oak trees, one in the front and one in the back (both are less than 5 feet from the house), making expansion of the house impossible. Events in the last year (the prospect that our surviving parents may come for a visit and my facing a second hip replacement) have required us to look to converting the single garage to a new living space so that the stairs will not have to be negotiated. Our plan includes building a car port on the existing driveway which will extend beyond the building line. The construction will not affect the footprint of the house and will actually result in better rain collection as currently rain runs down the driveway to the street. The front of the garage and car port will be designed to be architecturally compatible with the current house design and roof line.

To legally build beyond the building line we must petition the city for a variance. Part of their requirements includes advising the affected neighbors and determining their agreement or opposition to granting the variance; hence, the purpose behind this letter.

Please sign the attached letter to the variance board indicating your approval or opposition and return the letter to us in the enclosed envelope so that we can present your position to the variance board. If you prefer to send your position directly to the board, please do so.

Thank you for your cooperation in this matter. Please call me or Dianne should you have any questions.

Sincerely,



Bill and Dianne Harbeson

Enclosure

Date: 10-14-06

From: Terry and Janice Ross  
310 Larkspur  
Buda, TX 78610

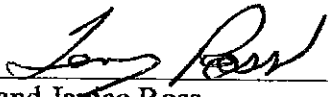
To: City of Austin

Subj: REQUEST FOR VARIANCE BY WILLIAM P. HARBESON AND DIANNE HARBESON

We have read the letter dated July 3, 2006 from Dianne and Bill Harbeson requesting a variance so that they can build a carport on their driveway in front of their home at 205 The Circle, Austin, Texas 78704 and

☒ Do not oppose the granting of a variance.

☐ Do oppose the granting of a variance

  
\_\_\_\_\_  
Terry and Janice Ross  
310 Larkspur  
Buda, TX 78610

Date: 7/5/06

From: Wallace J and Pamela L. Henderson  
1309 The Circle  
Austin, Texas 78704

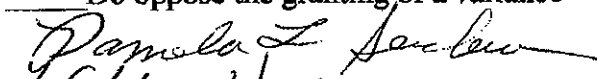

To: City of Austin

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Wallace J. and Pamela L. Henderson  
1309 The Circle  
Austin, Texas 78704

Date: July 28, 2006

From: Mary K. and Ronny E. Barnett  
1307 The Circle  
Austin, Texas 78704

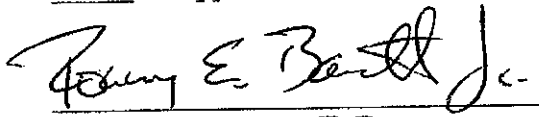
To: City of Austin

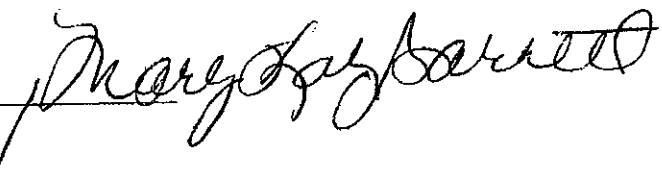
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☐ Do oppose the granting of a variance

  
Mary K. and Ronny E. Barnett  
1307 The Circle  
Austin, Texas 78704





Date: \_\_\_\_\_

From: Charles Christopher Rhett  
1305 The Circle  
Austin, Texas 78704

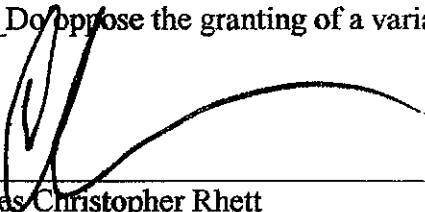
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The Circle, Austin, Texas 78704 and

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☐ Do oppose the granting of a variance

  
\_\_\_\_\_  
Charles Christopher Rhett  
1305 The Circle  
Austin, Texas 78704

August 3, 2006

Danete Chimenti  
200 The Circle  
Austin, Texas 78704

Dear Danete:

As you know, we are the owners of the house at 205 The Circle. The house is approximately 1734 square feet with the bedrooms on the second floor. The lot is 59 feet across the front and 81 feet deep on the longest side. The house was built in between two large oak trees, one in the front and one in the back (both are less than 5 feet from the house). Events in the last year (the prospect that our surviving parents may come for a visit and my facing a second hip replacement) have required us to look to converting the single garage to a new living space so that the stairs will not have to be negotiated. Our plan includes building a car port on the existing driveway which will extend beyond the building line. The construction will not affect the footprint of the house and will actually result in better rain collection as currently rain runs down the driveway to the street. The front of the garage and car port will be designed to be architecturally compatible with the current house design and roof line.

To legally build beyond the building line we must petition the city for a variance. Part of their requirements includes advising the affected neighbors and determining their agreement or opposition to granting the variance; hence, the purpose behind this letter. Please sign below indicating your approval or opposition and return to letter to us. can present your position to the variance board. If you prefer to direct you letter directly to the board, their address is:

Thank you for your cooperation in this matter. Please call me or Dianne should you have any questions.

Sincerely,

Bill Harbeson and Dianne Harbeson

I do not oppose granting the variance

DAUG  
(Signature)

8-3-06  
(Date)

I oppose granting the variance

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Date: 7/17/2006

From: Vicki Faust and Kimberly Cavendish  
110 The Circle  
Austin, Texas 78704

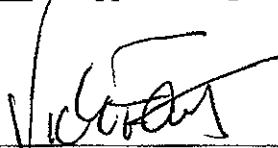
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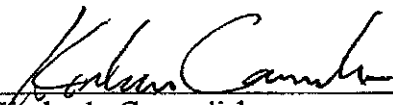
☒ Do not oppose the granting of a variance.

☐ Do oppose the granting of a variance

  
\_\_\_\_\_  
Vicki Faust  
110 The Circle  
Austin, Texas 78704

☒ Do not oppose the granting of the variance.

☐ Do oppose the granting of a variance.

  
\_\_\_\_\_  
Kimberly Cavendish  
110 The Circle  
Austin, Texas 78704

Date: 7/6/06

From: Michael Bar  
207 The Circle  
Austin, Texas 78704

To: City of Austin

Subj: REQUEST FOR VARIANCE BY WILLIAM P. HARBESON AND DIANNE HARBESON

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X Do not oppose the granting of a variance.

       Do oppose the granting of a variance

Mike Bar  
Michael Bar  
207 The Circle  
Austin, Texas 78704



## City of Austin

Austin's Community-Owned Electric Utility

[www.austinenergy.com](http://www.austinenergy.com)

Town Lake Center • 721 Barton Springs Road • Austin, Texas • 78704

C15-06-14

October 2, 2006

Mr. and Mrs. William P. Harbeson  
205 The Circle  
Austin, Texas 78704

Re: 205 The Circle  
Lot 3, Re-subdivision of Block 10, Fairview Park

Dear Mr. and Mrs. Harbeson:

Austin Energy (AE) has reviewed your application for a freestanding car port for above-referenced property. AE does not have an easement or electric lines that would be impacted by the requested variances. However, all applicants must meet AE Clearance Criteria requirements as well as be in compliance with National Electric Safety Code and OSHA requirements. NESC: 7.6 feet and AE: 5 feet. OSHA regulations apply to construction clearances.

Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6112.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christine Esparza".

Christine Esparza  
Right of Ways Specialist  
Public Involvement/Real Estate Services

Cc: Clara Hilling  
Diana Ramirez

11 September 2006

Rec.  
9-29-06  
✓  
From: William P. and Dianne Harbeson  
To: CITY OF AUSTIN- BOARD OF ADJUSTMENT

**Re: REQUEST FOR VARIANCE AT 205 THE CIRCLE, AUSTIN TEXAS 78704**

**VARIANCE REQUESTED:**

A general variance is requested to build a freestanding car port on the existing driveway at 205 The Circle. The open-sided car port will extend approximately 18.5 feet from the front building line toward the street. The structure will be 16.5 feet from the street.

**BACKGROUND:**

The property in question contains a two story, 1734 square foot residence, built in 2004. When the home was constructed, there had never been a structure at the location and the home was situated between mature live oak trees. The owners are converting the single car garage so that it can be a first floor bedroom for the owners' surviving parents on visits to Austin, and for the owner who is anticipating hip replacement surgery in the next few years. With the conversion of the garage, a car port is needed to shelter the owners' automobile.

**REASONABLE USE**

*The zoning regulations applicable to the property do not allow for a reasonable use because:*

The unique features of the property, combined with the zoning regulation of a 25 foot set back for the building line, do not allow for any expansion of the structure. The lot is 55.94 feet wide and 62.75 feet long on the east side and 81.45 feet long on the west side. The east side of the structure is 7 feet 8 inches from the fence/ property line, and the west side of the structure is 5 feet from the fence/property line. The back yard is 10 feet deep at the southwest corner of the structure and 16.5 feet deep at the southwest corner of the structure.

There are four large oak trees on the property, with two of these trees positioned at the only two available locations for expansion. The 24-inch diameter oak tree in the back of the structure is 54 inches from the structure. The 36 inch diameter oak tree at the front of the structure is 12 inches from the front of the structure.

**HARDSHIP**

*2(a) The hardship for which the variance is requested is unique to the property in that:*

The lot is extremely small, having been subdivided from an original lot which ran from Park Lane to the Circle. The small lot size, combined with the mature oak trees on the lot, provide no viable alternative to converting the garage into a first floor bedroom and building a port for the homeowners' vehicle on the existing driveway.

C 18-c6-A

11 September 2006

From: William P. and Dianne Harbeson  
To: CITY OF AUSTIN- BOARD OF ADJUSTMENT

**Re: REQUEST FOR VARIANCE AT 205 THE CIRCLE, AUSTIN TEXAS 78704**

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**HARDSHIP**

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**Re: REQUEST FOR VARIANCE AT 205 THE CIRCLE, AUSTIN TEXAS 78704**  
**Page 2 of 3**

*2(b) The hardship is not general to the area in which the property is located because:*

The small lot size and particular location of mature oak trees on the lot is not typical of the area in which the property is located.

**AREA CHARACTER:**

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

The only structure to the west of the property in question is a duplex, 200 Park Lane, with the parking area accessible from Park Lane. The driveway for 205 The Circle is on the west side of the lot and is separated from the 200 Park Lane Property by a retaining wall, a chain link fence and vegetation. The owner of the property at 200 Park Lane has been advised of the planned construction of the car port and does not object to its construction and granting of a variance.

The structure to the east of the property, 207 The Circle, is a triplex with parking in front. Separating this property and the proposed construction is vegetation planted on the east property line. The property owner of the property to the east has been advised of the planned construction of the car port and does not object to its construction and granting the variance.

There is a property located at the corner of Drake and The Circle with the entrance to that property on Drake. The owner of that property has been advised of the requested variance and has not advised the undersigned of any objection.

There are no residences across the street from the property in question. There exists a naturally vegetated easement and fence for a large apartment project which has its entrance on Congress Avenue.

At 200 The Circle is a residence. The owner, who is president of the neighborhood association, has been advised of the proposed construction of the car port and has advised that she does not oppose granting the variance. The proposed structure will not be visible from 200 The Circle because of distance and vegetation. At 110 The Circle there is a vacant lot which has been approved for construction of a bed and breakfast. The Board of Adjustment has earlier approved a reduced set back for this planned construction. The owners of that property have been advised of the proposed construction and are not in opposition to the requested variance. The proposed structure will not be visible from 110 The Circle because of distance and vegetation.

The owners of the properties at 1305, 1307 and 1309 The Circle have advised that they are not opposed to the granting of the variance.

The character of the neighborhood, in general, is very eclectic and there already exist a number of structures and additions which, when built, constitute variances from the



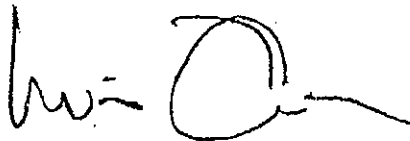
**Re: REQUEST FOR VARIANCE AT 205 THE CIRCLE, AUSTIN TEXAS 78704**  
**Page 3 of 3**

zoning regulation at issue. These structures and additions have been constructed on properties with larger lots and on lots not having the hardship of the existing live oak trees characterizing the lot in question.

The planned structure will not extend the footprint of the structure on the lot and will be architecturally compatible with the existing home. Furthermore, it is anticipated that the existence of the structure will be more environmentally friendly as rain will be diverted to the land and/or a rain collection system, instead of running down the existing driveway to the street.

In conclusion, this variance is sought only because there is no viable alternative to the property owner and is not intended or expected to undermine the purpose of the zoning regulation.

Please contact the undersigned should the Board or the City staff have any questions regarding this request.



William P. and Dianne L. Harbeson  
205 The Circle  
Austin, Texas 78704  
462-1353 (Home)  
416-4882 (Work)  
789-9360 (Cell)  
[billharb@austin.rr.com](mailto:billharb@austin.rr.com)

**Enclosures:**

Survey Plat of 205 The Circle  
Property diagram with proposed location of car port and oak trees.  
Neighborhood plat map with 205 The Circle highlighted.  
Sample of Letter sent to neighbors  
Responses received from neighbors.

OWNER:  
DIANE HARBESON AND  
WILLIAM HARBESON

ADDRESS:  
205 THE CIRCLE

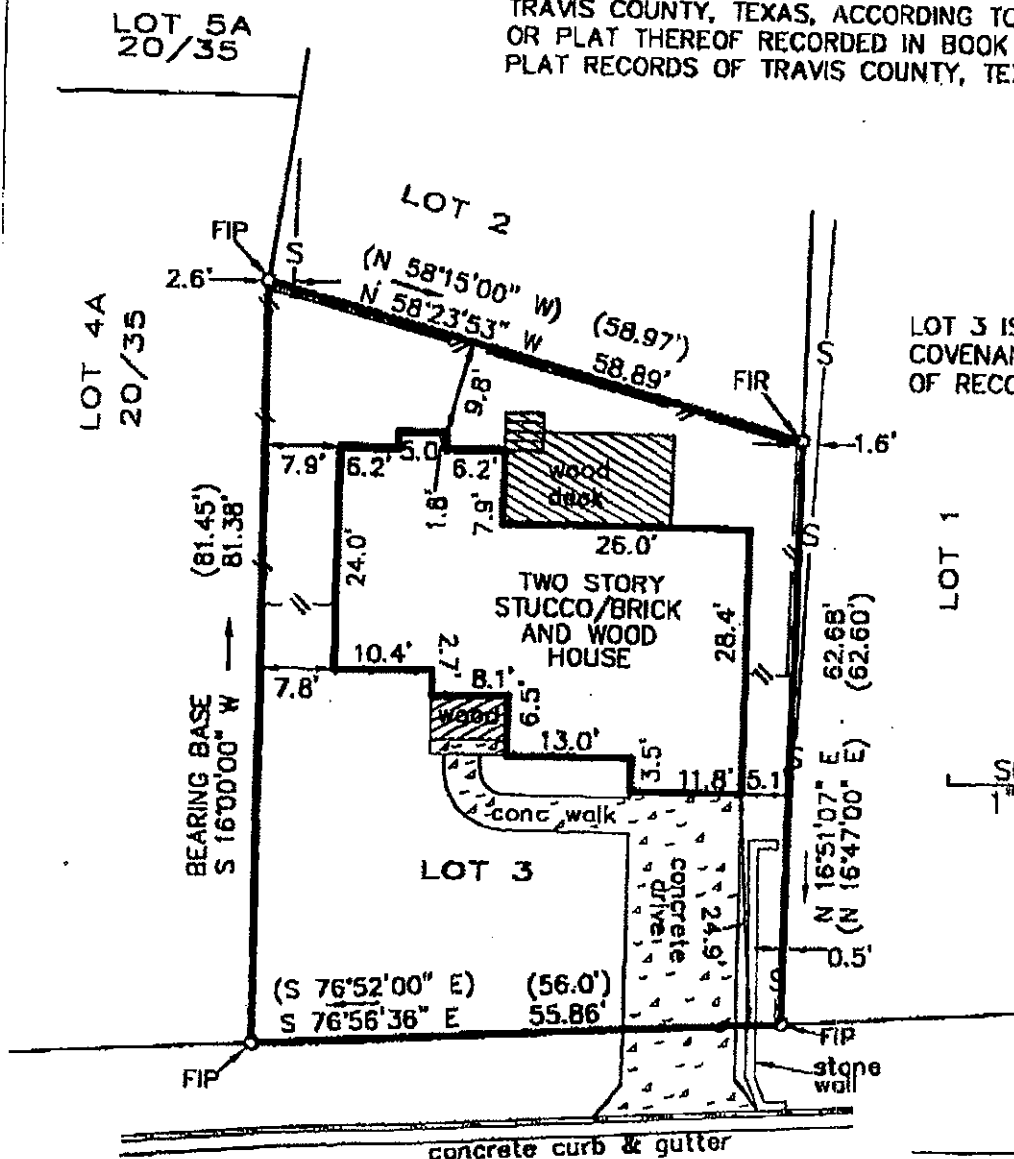
# Waterloo Surveyors Inc. SURVEY PLAT

J10104A

## LEGAL DESCRIPTION:

LOT 3, RE-SUBDIVISION OF BLOCK TEN, FAIRVIEW PARK, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 1, PAGE 40, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

LOT 3 IS SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENT RIGHTS OF RECORD.

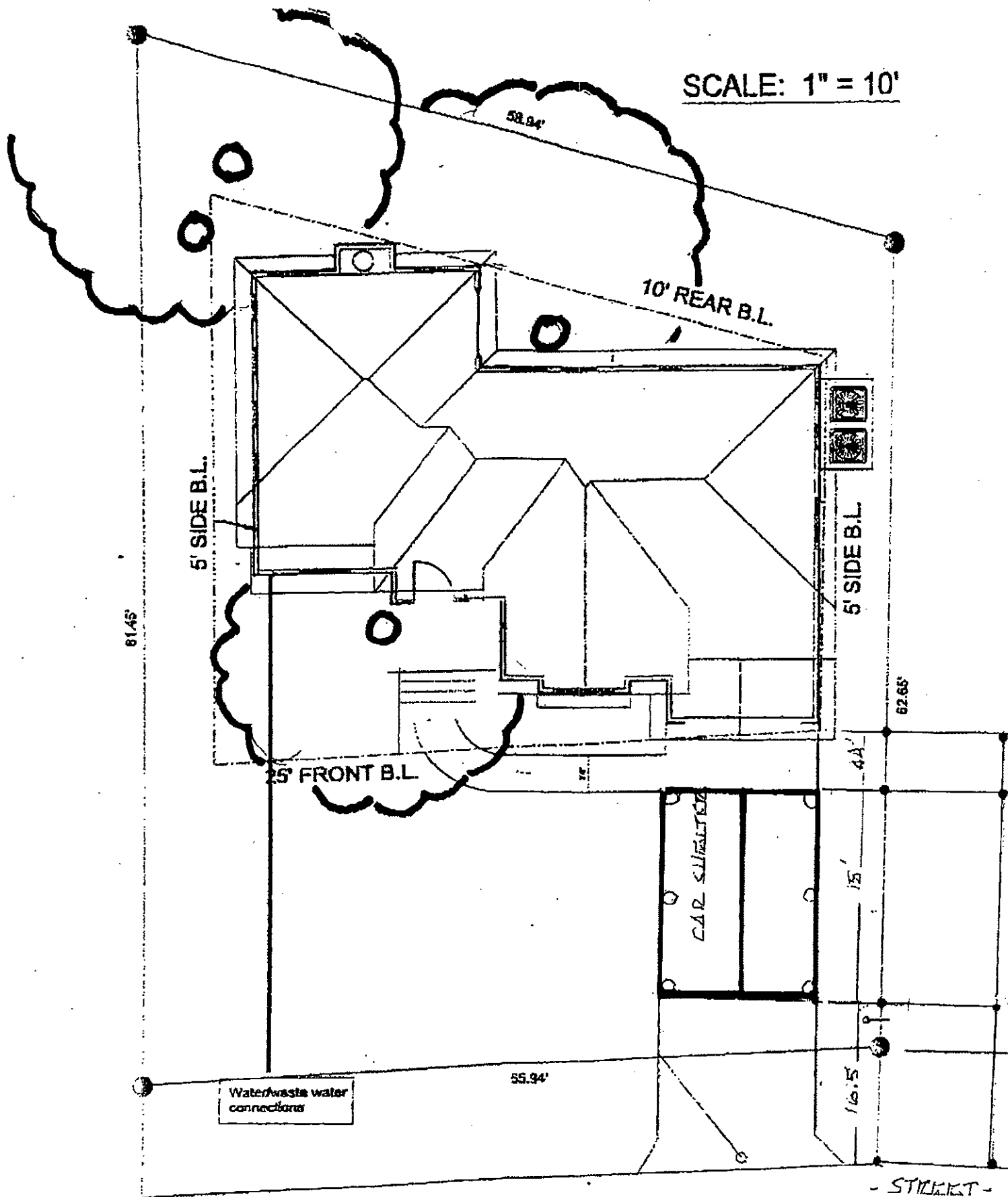


**THE CIRCLE**

## LEGEND

FIR FOUND IRON ROD  
FIP FOUND IRON PIPE  
CHAIN LINK FENCE —S—S—  
WOOD FENCE —X—X—X—X—

"TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO FIDELITY NATIONAL TITLE



**\*\* 205 THE CIRCE \*\***  
**LOT 3, RESUBDIVISION OF**  
**BLOCK TEN, FAIRVIEW PARK**



## Texas Department of Transportation

MOTOR VEHICLE DIVISION • Enforcement Section  
PO BOX 2293 • Austin, Texas • 78768 • (512)416-4800 • FAX (512)416-4891

### FACSIMILE TRANSMISSION COVER SHEET

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**Date:** 29 September 2006

**To:** Christine Esparza

**Fax:** 322-6101

**Sender:** Bill Harbeson

**YOU SHOULD RECEIVE 4 PAGES INCLUDING THIS COVER SHEET.**

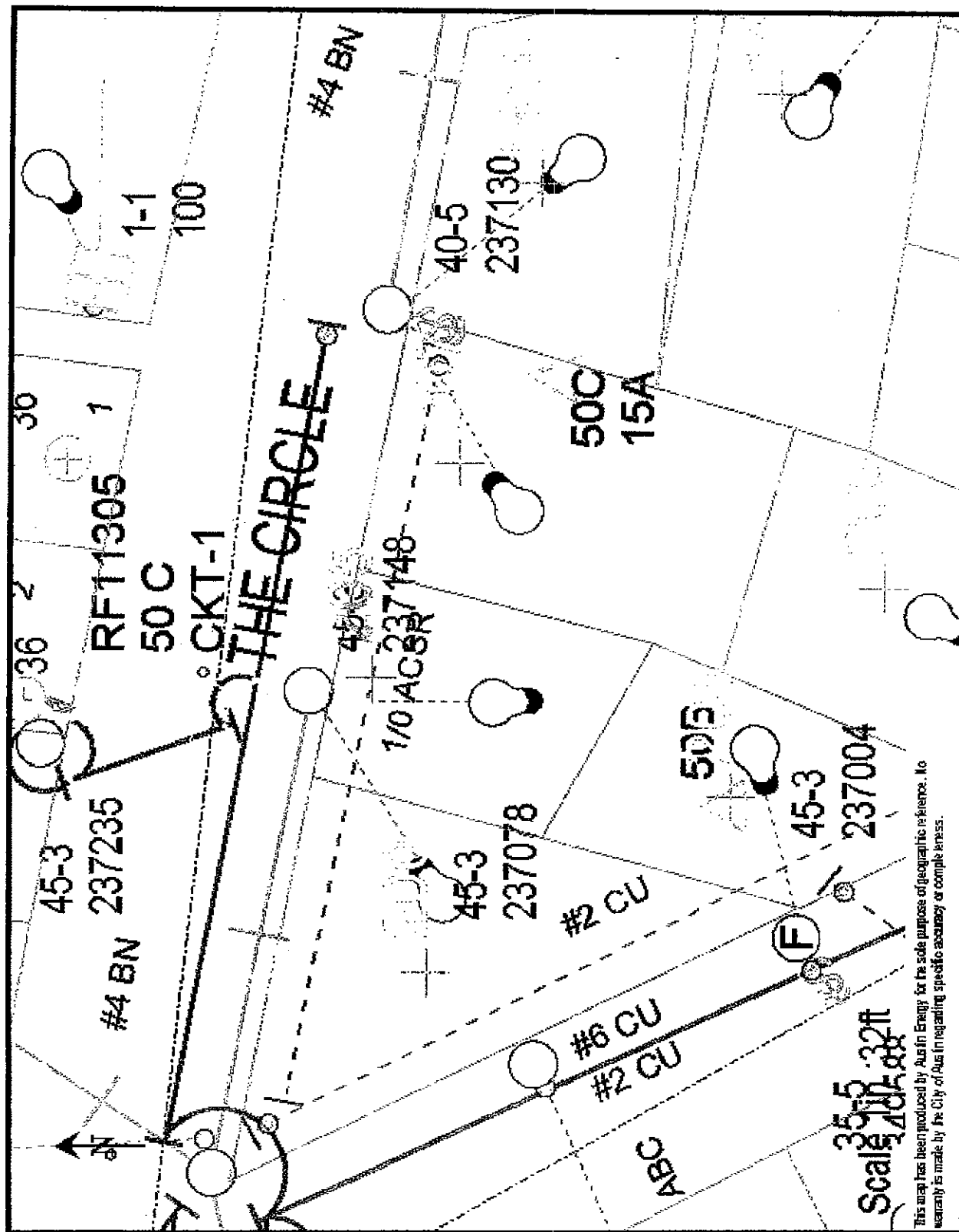
**IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL (512) 416-4882**

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Re: Please advise should your offices require any further information. R/ WPH

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\* \* \* \* \*





## NOTICE OF PUBLIC HEARING LAND DEVELOPMENT CODE VARIANCE

**Mailing Date: November 2, 2006**

**Case Number: C15-06-147**

Please be advised that the City of Austin has received an application for a variance of the Land Development Code.

Owner: Dianne and William Harbeson

Telephone: 512-789-9360

Address and/or Legal Description of Requested Variance:  
205 The Circle

Variance Request(s): The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 6.5 feet in order to erect a carport for a single-family residence in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district.

This application is scheduled to be heard by the Board of Adjustment on November 13, 2006. The meeting will be held at City Hall Council Chambers, 301 West 2<sup>nd</sup> Street beginning at 5:30 p.m..

You are being notified because City Ordinance requires that all property owners within 300 feet of the proposed development and affected neighborhood organizations be notified when an application is scheduled for a public hearing. If you have any questions concerning this application, please contact Susan Walker of the Watershed Protection and Development Review Department at 974-2202 and refer to the Case Number at the top right of this notice.

For additional information on the City of Austin's land development process, please visit our web site [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).