

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, February 11, 2013

**CASE NUMBER:** C15-2013-0005

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen **Motion to PP to 3-11-13**  
\_\_\_\_ Nora Salinas **ABSENT –STUART HAMPTON**  
\_\_\_\_ Bryan King  
\_\_\_\_ Fred McGhee  
\_\_\_\_ Melissa Hawthorne **2<sup>nd</sup> the Motion**  
\_\_\_\_ Sallie Burchett  
\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** Charles Escutia & David Knoll

**OWNER:** Elizabeth Hurley

**ADDRESS:** 1504 CANTERBURY ST

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 2.8 feet in order to remodel an accessory structure to create a two-family residential use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

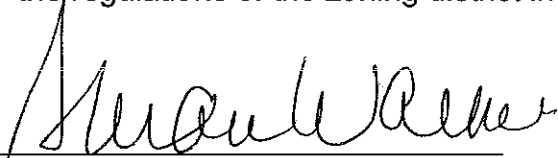
The applicant has requested a variance to decrease the minimum separation distance requirement of Section 25-2-774 (C) (2) (a) from 15 feet to 14.2 feet in order to remodel an accessory structure to create a two-family residential use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan) The Land Development Code states that the second dwelling unit must be located at least 15 feet to the rear of the principal structure.

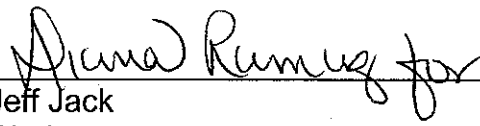
**BOARD'S DECISION:** The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to March 11, 2013, Board Member Melissa Hawthorne second on a 7-0 vote; **POSTPONED TO MARCH 11, 2013.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:  
  
(b) The hardship is not general to the area in which the property is located because:

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:

  
\_\_\_\_\_  
Susan Walker  
Executive Liaison

  
\_\_\_\_\_  
Jeff Jack  
Chairman

**Ramirez, Diana**

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**From:** ~~DavidCancialosi@gmail.com~~ on behalf of David Cancialosi <david@permit-partners.com>  
**Sent:** Monday, March 04, 2013 10:18 AM  
**To:** Walker, Susan; Ramirez, Diana  
**Cc:** David Cancialosi  
**Subject:** 1504 canterbury UPDATED MATERIAL for march 11 BOA  
**Attachments:** 1504 Canterbury docs to BOA.pdf; 1504 Canterbury Variance Slides MAR2013 (1).ppt

Susan, Diana:

The owner presented at the Feb hearing, was postponed by BOA, and has since engaged me to assist with the presentation in March.

Please find attached the updated material for this case.

Please replace the existing packet material with this material as it addresses the items requested by the BOA.

Thank you.

--

**Sincerely,**  
**David C. Cancialosi, President**  
**Permit Partners, LLC**  
**DC Development & Construction, Inc.**  
**512-799-2401 c**  
**512-373-8846 f**  
**[www.permit-partners.com](http://www.permit-partners.com)**

CONFIDENTIAL AND PRIVILEGED COMMUNICATION: This e-mail transmission, and any documents or files attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. Interception of e-mail is a crime under the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and 2701-2709. Any comments, code interpretations, or information conveyed by Permit Partners LLC via federal, state, or local regulations may not be 100% accurate given the complex and ever-changing nature of various code interpretations made by staff members. If you have received this transmission in error, please immediately notify Mr. David Cancialosi by replying to this e-mail or by telephone at 512-799-2401, and destroy the original transmission and its attachments without reading them or saving them to disk. Thank you.

Please be advised that the Board only takes 16 new cases a month, therefore, first come, first served. Please be advised that a request for reconsideration must be filed within 7 days from the Board meeting.

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 974-2580.

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).

\* Updated

CASE # C15-2013-0005  
ROW # \_\_\_\_\_

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

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

**WAR  
NING**

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

STREET ADDRESS: 1504 Canterbury

LEGAL DESCRIPTION: Subdivision — LOT 14.\* & W14.5 FT OF LOT 13 BLK 2 OLT 34&46 DIV O  
WELCH SUBD

I/We David Cancialosi on behalf of myself/ourselves as authorized agent for

Mike Blackhurst \_\_\_\_\_ affirm that on February 27, 2013,

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

(check appropriate items below)

    ERECT     ATTACH     COMPLETE   X   REMODEL     MAINTAIN

**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.**

(zoning district) SF-3

3' rear setback to maintain detached structure: LDC 25-2-492(D)

13.5' distance requirement between primary and secondary units: LDC 25-2-774

**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:

The owner proposes to maintain an existing structure 2 feet from the rear property line. The structure has been used as a dwelling unit for several years, and believed to have been converted in 1986 by a previous owner via a series of permits. Those permits identified the scope of work as 'storage and plumbing' only. Upon researching the Sanborn maps, this structure is shown to exist at least since 1959 or earlier. The maps appear to show the building in the same location as current surveys and photographs do: located in the rear NW corner of the lot.

The existing location of the structure also encroaches into the required 15' distance requirement between two dwelling units by approximately 1.5'. The owner proposes to move the existing door (of the rear unit) to orient towards the east vs the south. Minor remodel work is needed to update the structure, including electrical work. This cannot be done without approval of the change of use and related encroachments that otherwise would not prohibit staff from approving a residential permit application.

The current owner purchased the property with the dwelling unit in place. Prior to purchase a series of building permits and a certificate of occupancy was supplied. The owner assumed all entitlements were in order.

The unit is located adjacent to a rear public alley. This is similar in nature to many secondary dwelling units found in the East Cesar Chavez neighborhood. As such, the unit's parking will served by a 2 space parking pad taking access from the alley. This will supply 3 off-street parking spaces.

The East Cesar Chavez Neighborhood Association has met with the owner and fully supports this request. Written support is provided for your review.

The owner proposes no further footprint expansion.

Please note exhibits in your packet.

**HARDSHIP:**

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

The structure has been in its current location since 1959. It is believed to have been utilized as a dwelling unit since 1986, perhaps before. At the time of (probable) conversion, the zoning code had recently been amended to identify single family zoning categories from A or AA to SF-1, 2, or 3, etc. The prior zoning categories allowed 2 dwelling units in AA zoning. The use is in keeping with the intent of the prior and current land development code(s).

In rear section of the lot, there are two heritage-sized trees. A 31" Pecan is located to the east of the secondary structure. Its critical root zone extends to the structure's foundation. On the west side of the lot a 26' Elm is located adjacent to the primary structure. The CRZ extends into the 'required distance' area. It is not likely that COA Arborist will allow encroachment into the CRZ.

It is not feasible nor practice to move the existing structure, nor to remove portions of the structure to comply with minimal encroachments. Under Subchapter F section 2.4 an accessory dwelling unit is allowed a 5' rear setback when adjacent to a public alley. This structure is encroaching 2 feet into the rear 5' setback. The 1.5 foot encroachment into the distance requirement cannot be complied with without substantial change to either structure's footprint.

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

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

Printed \_\_\_\_\_ Phone \_\_\_\_\_ 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 1504 Canterbury St

City, State & Zip Austin TX 78702

Printed Michael Blackhurst Phone 512-925-5645 Date 2/27/2013

Requiring the unit to be altered from its current state of use would be overly burdensome given the length of time it has been in place.

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

The owner is not aware of other properties with the same encumbrances.

**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:

Allowing the rear structure to remain in its current location will not impair the use of any adjacent properties nor impair the intent of the zoning regulations. The East Cesar Chavez Neighborhood Plan endorses the variance request. Further, the neighborhood plan promotes density and affordable housing in the Austin urban core. This property is an owner occupied structure utilized by a growing family. If the family is unable to reasonably utilize the additional space they may be forced to relocate.

<p><b>NOTE:</b> The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly</p>
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**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  
Permit Partners LLC  
7105 Barnsdale Way Austin Texas 78745

Printed David Cancialosi c/o Permit Partners LLC  
512-799-2401  
February 28, 2013

**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 \_\_\_\_\_

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

.....

1308 East 2<sup>nd</sup> St.  
Austin, TX 78702

## East Cesar Chavez Neighborhood Planning Team

March 3, 2013

Board of Adjustment  
City Council Chambers  
301 W. 2<sup>nd</sup> Street

RE: 1504 Canterbury Street setback variance

Dear Board Members:

The East Cesar Chavez Neighborhood Planning Team is writing in support of Beth Hurley's request for a variance to waive the setback requirements in order to remodel an existing accessory structure at 1504 Canterbury Street.

Ms. Hurley met with the neighborhood team at our monthly meeting (2/20/2013) at Terrazas Library.

The Team discussed and decided that secondary units that existed prior to the adoption of our Neighborhood Plan in 1999 should have amnesty regarding setbacks. The Team feels this amnesty would encourage re-use of existing structures, and increase density appropriately on residential lots. It would be similar to the small lot amnesty in our Neighborhood Plan, which reads as follows:

"Section 3, Goal 2, Objective 3: Provide additional opportunities to increase housing opportunities in the neighborhood.

Action 96: Create an ordinance to allow single family housing to be constructed on existing substandard single family lots with a minimum area of 2,500 square feet, which existed prior to the date of this adopted neighborhood plan ..." [1999]

The Team voted unanimously in favor of the setback variance for 1504 Canterbury. We are generally NOT in support of setback or other variances for new construction. Our support for setback variances applies to structures existing prior to 1999.

We hope that you will join us in support of this variance.

Sincerely,

**Molly O'Halloran**  
Chair – Land Use Committee  
East Cesar Chavez Neighborhood Planning Team  
1308 East 2nd Street

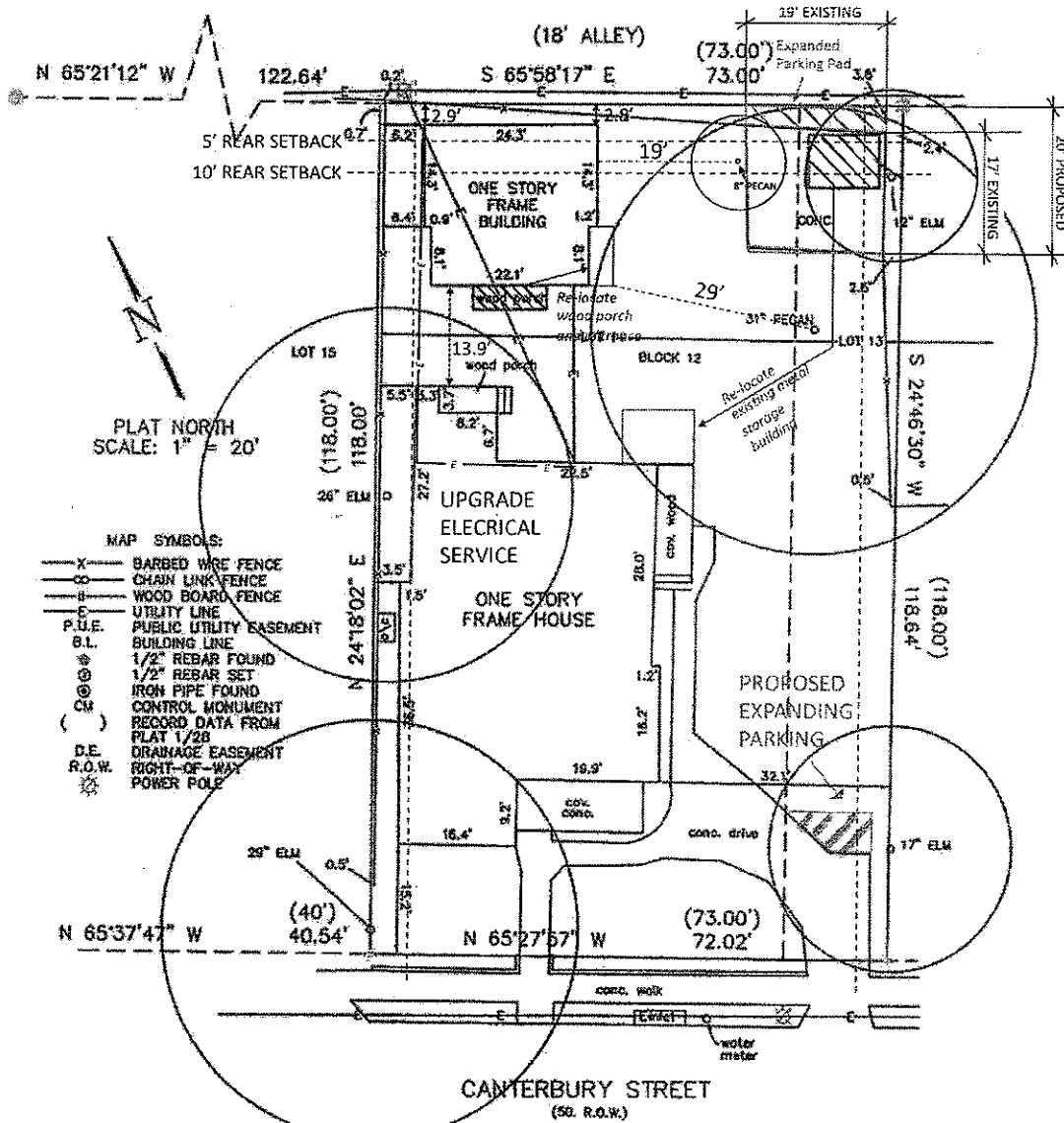


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ASBUILT SURVEY  
OF 1504 CANTERBURY STREET, AUSTIN, TEXAS  
LOT 14 & WEST 14.5' OF LOT 13, BLOCK 2  
OUTLOT 34-48, DIVISION 0  
WELCH SUBDIVISION  
V. 1, PG. 28

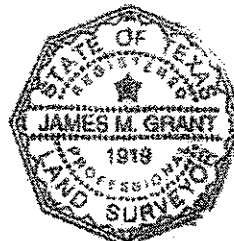
NOTE:  
THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE  
COMMITMENT. EASEMENTS, RESTRICTIONS AND/OR BUILDING  
SETBACKS MAY EXIST THAT ARE NOT SHOWN HEREON.



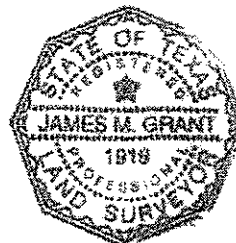
HARRIS-GRANT SURVEYING, INC.  
1700 S. LAMAR, STE. # 332 AUSTIN, TEXAS 78704  
(512) 444-1781 FAX (512) 444-6123

*James M. Grant*

JAMES M. GRANT R.P.L.S. 1919  
DATE: AUGUST 25, 2011



NOTE:  
THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE  
COMMITMENT. EASEMENTS, RESTRICTIONS, AND/OR BUILDING  
SETBACKS MAY EXIST THAT ARE NOT SHOWN HEREON.

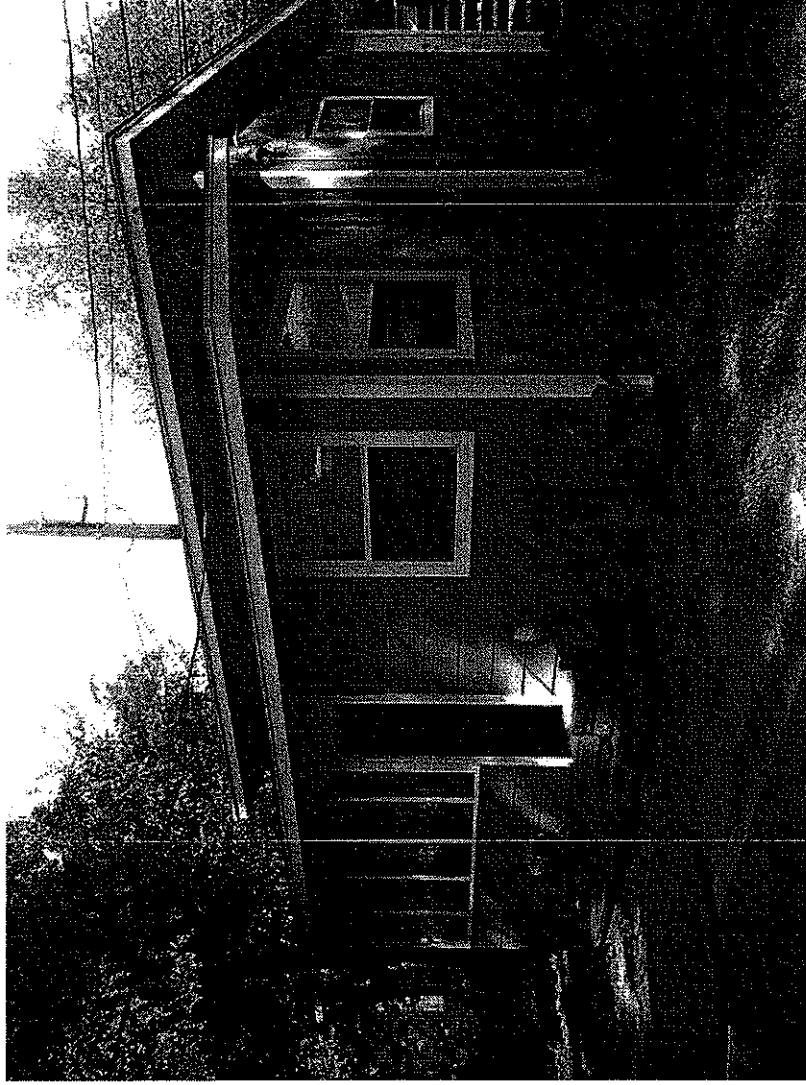


James M. Smith

C:\CARL D\2011\43576

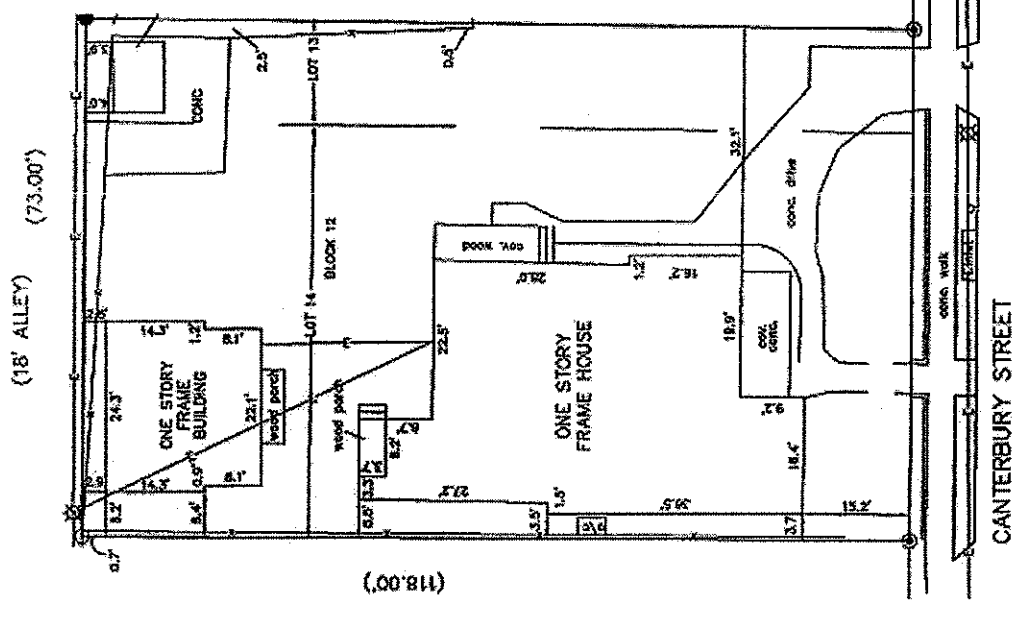
# 1504 Canterbury St

City of Austin, Board of Adjustments Hearing, Mar 11, 2013



# Site Description and History

- Owner-occupied
- Main home built in 1920 (TCAD)
- Accessory building pre-dates 1959 (Sanborn)
- Located in East Cesar Chavez neighborhood



# Timeline

Month	Status
Oct-2011	Owners purchased property with understanding occupancy was permitted for accessory structure
Oct-2012	Owners became aware of use restrictions and expired mechanical and building permits
Nov-2012	Owners apply for BOA hearing request. Request denied by AE because of concerns over electrical service
Dec-2012	Owners work with AE to identify above-code electrical service upgrades contingent upon variance (shown in final site plan and bids provided)
	Owners work with City staff to identify appropriate parking upgrades
Jan-2013	BOA hearing request approved for Feb 2013
Feb-2013	BOA hearing postponed due to incomplete information
May-2013	Owners expecting twins. Family to grow to 5.

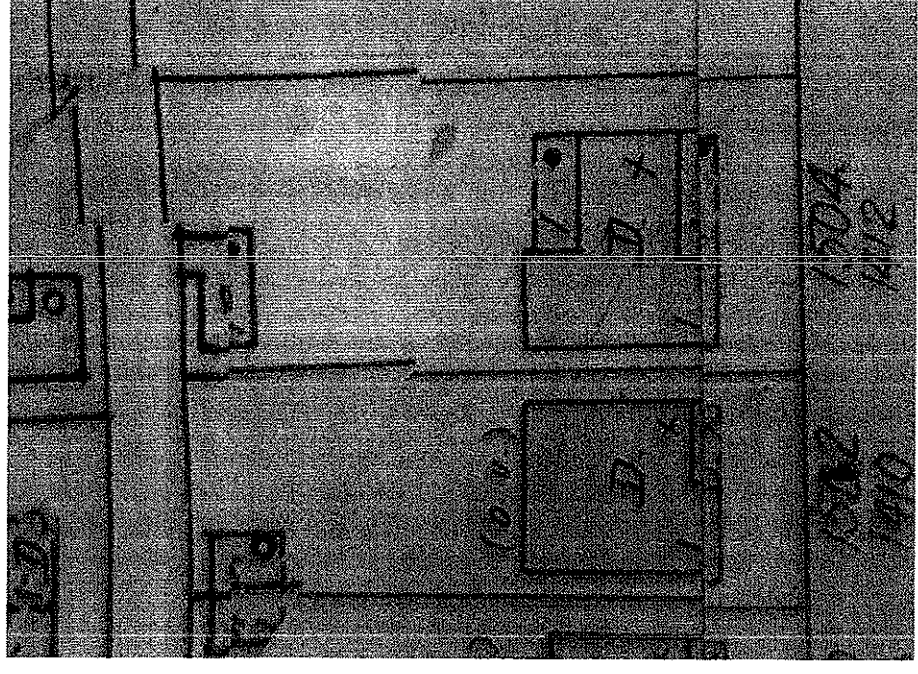
# Information Requested by BOA in Feb 2013

- Show location of trees on survey
- Clarify history of accessory building
- Provide existing and proposed site plans with key distances



# Accessory Building Permit History

- Accessory building pre-dates 1959 (Sanborn)
- 1986 permits filed for “acc. bldg (storage and bath)”
- Inspections approved in 1986
  - Foundation
  - Layout
  - Final electrical
  - Rough plumbing
  - Copper plumbing
  - Top out plumbing
- Inspections not completed/permits expired
  - Mechanical
  - Building



1959 Sanborn Map

# Apparent Use History

- Building appears to have been occupied for some time
- Earliest quality aerial showing current layout is 2003
- Neighbors indicate that building has been occupied since or before the mid 1990's





# East Cesar Chavez Neighborhood Plan

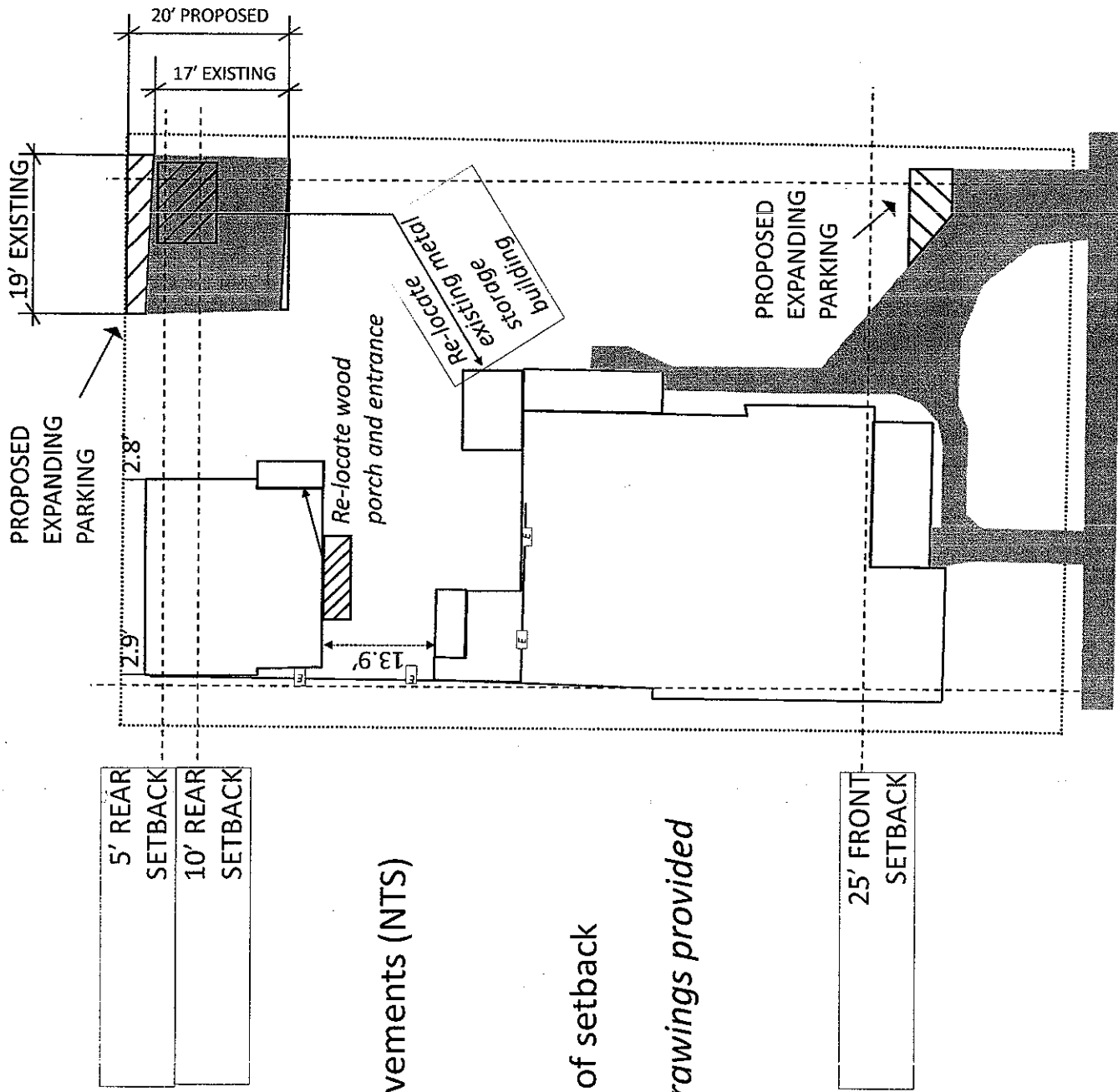
- Land use (Chapter IV, Section 1)
  - Goal 2: Ensure that new structures, renovations, and business are compatible with the neighborhood.
    - Objective 1: Ensure that all new of redevelopment projects are compatible with the existing character of the area in scale, density, design, and parking
  - Goal 3: Create and preserve physical features and activities to reinforce our neighborhood's cultural identity and history.

# East Cesar Chavez Neighborhood Plan

- Housing (Chapter IV, Section 3)
  - Goal 1: Establish a housing education and outreach program with public and private organizations to preserve and rehabilitate existing housing
    - ☐ Objective 6: Work with public and private sector to make it easier to finance housing and rehabilitation of housing and offer incentives to owners to rehabilitate rental housing
  - Goal 2: Preserve & increase the number of homeowners in the area
    - ☐ Objective 3: Provide additional opportunities to increase housing opportunities in the neighborhood.
    - ☐ Action 98: Create an ordinance that permits in all residential zoning districts within the planning area a single accessory “granny flat” unit constructed on the same lot as the primary residential unit attached to the garage or to the existing residence for ground floor access

## East Cesar Chavez Neighborhood Assoc.

- Letter of support included
- Voted unanimously on 2/20/2013 to support requested setback variance



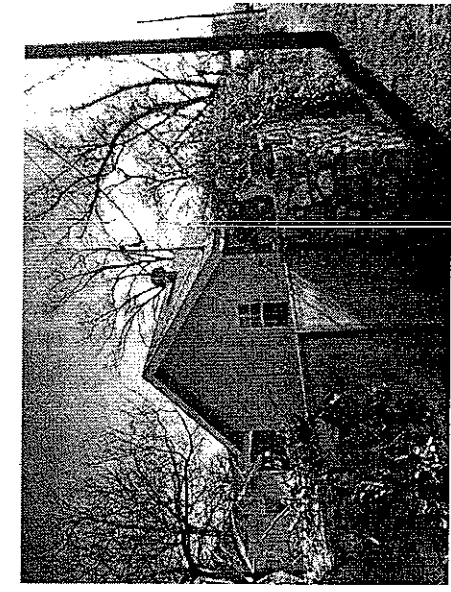
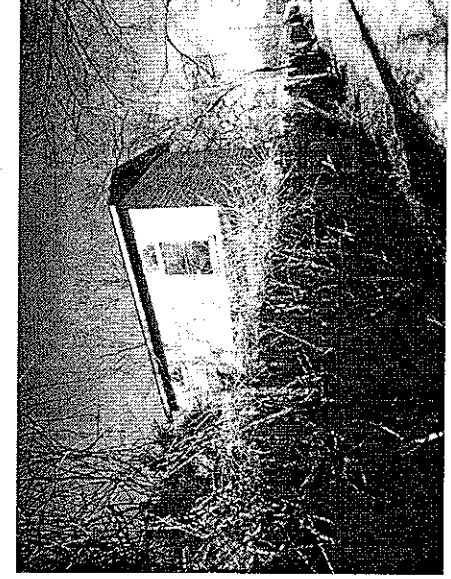
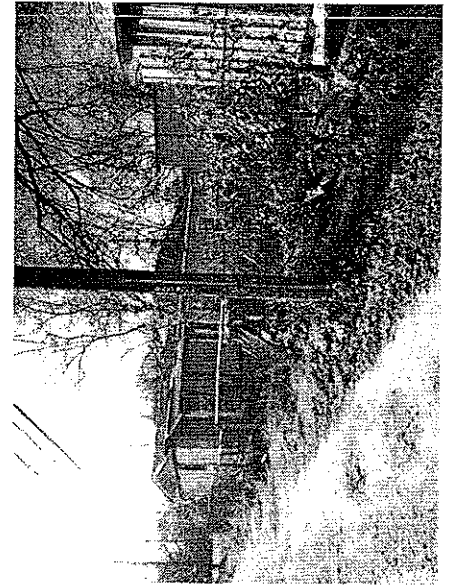
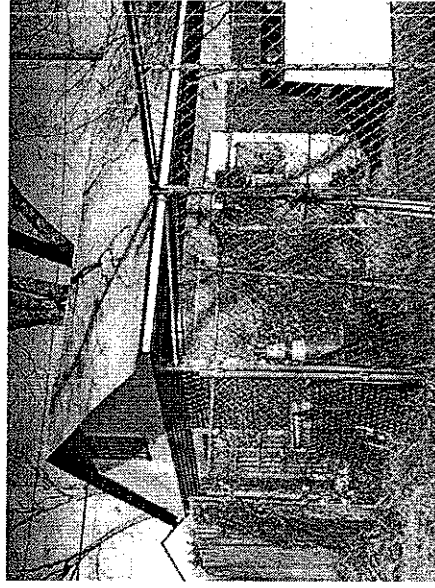
# Schematic of proposed improvements (NTS)

- (1) Expanded parking
- (2) Upgrade electrical service
- (3) Relocate storage bldg out of setback

*More detailed architectural drawings provided*

# Similar Nearby Structures

- 17 with known or perceived to be occupied within 2 blocks



# Hardship

- Structure in place since 1959 or before
- Structure permitted for bathroom in 1986
- Structure located between 2 heritage trees

# Reasonable Use

- Current secondary use in place for several years
- Likely existed since 1986
- Given age of structure / neighborhood, it is reasonable to maintain current footprints
- BOA approval allows owners to secure necessary safety permits for electrical, hot water heater, etc

# Area of Character

- Secondary unit is in keeping with East Cesar Chavez neighborhood plan goals.
- The unit is in keeping with style, size, and location of several local units on other lots.
- The unit will not impair the use of any adjacent properties.



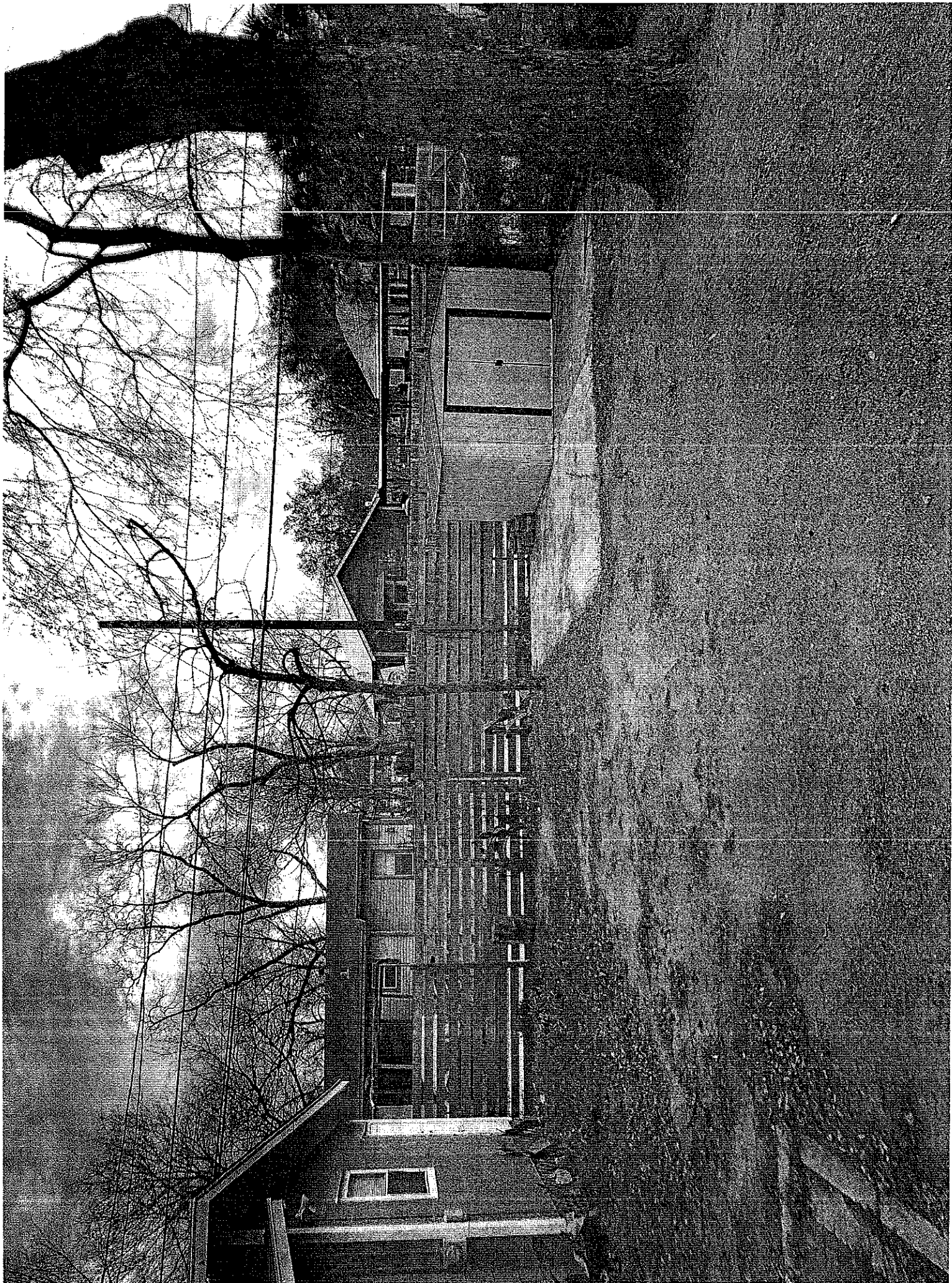
Thank you :: Questions :: Comments



500-319-517











## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

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

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

**Case Number: C15-2013-0005 – 1504 Canterbury Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, February 11th, 2013**

Susan ARVIZ  
Your Name (please print)

☒ I am in favor  
☐ I object

1402 Canterbury  
Your address(es) affected by this application

[Signature] 2/5/2013  
Signature Date

Daytime Telephone: 512-295-8437

Comments: \_\_\_\_\_

**If you use this form to comment, it may be returned to:**

City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

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Case Number: C15-2013-0005 – 1504 Canterbury Street  
Contact: Susan Walker, 512-974-2202  
Public Hearing: Board of Adjustment, February 11th, 2013

Shawn Somerville  
Your Name (please print)

1508 Willow St.

Your address(es) affected by this application

*[Signature]*  
Signature

2/5/13  
Date

Daytime Telephone: 512-577-3341

Comments:

This property already has a duplex. It is being turned into a tri-plex. They can follow set back like everyone else.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088