

CASE # C15-2013-0072  
ROW-10963105  
TP-0142011016

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: 7804 Heathercrest Circle

LEGAL DESCRIPTION: Subdivision – Greentrails Estates

Lot(s) 16 Block C Outlot \_\_\_\_\_ Division \_\_\_\_\_

I Jim Bennett as authorized agent for Hussain Malik

\_\_\_\_\_ affirm that on 5/9/2013, hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

A privacy fence providing a total height of 9 ft 6 inches in a SF-3  
district.

(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:  
a fence of this height is needed to obtain privacy of the yard and home..

**HARDSHIP:**

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

The elevation of this site is higher than the adjoining condominium site and the balcony of the two story unit looks directly into this property due to this grade change.

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

The adjoining multi-family condo site and the grade differential makes this a unique hardship.

**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 character of the area won't change because the fence is to the rear of the property and the adjoining condo associations support this variance request.

**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:

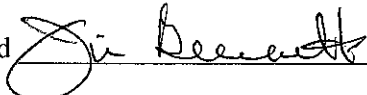
\_\_\_\_\_

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  Mail Address 11505 Ridge Dr.

City, State & Zip Austin, TX. 78748

Printed Jim Bennett Phone 282-3079 Date 5/19/2013

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

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

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

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Signed Hussain Malik Mail Address 7804 HEATHERCREST CIR  
City, State & Zip Austin, TX 78731

Printed HUSSAIN MALIK Phone (512) 472-6666-W Date 5/9/13

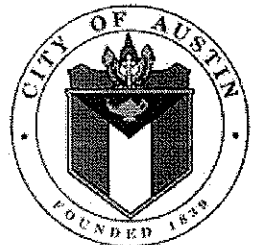


SUBJECT TRACT



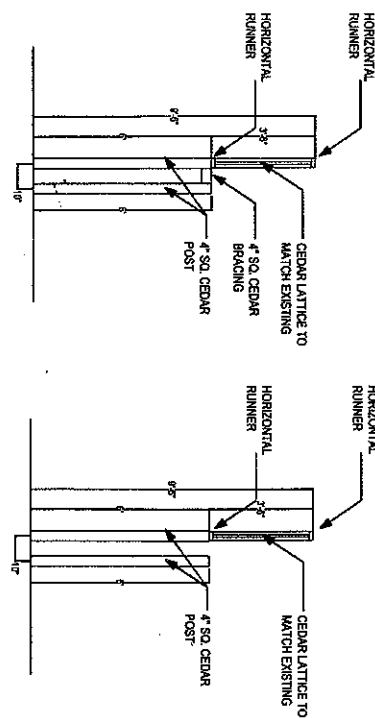
ZONING BOUNDARY

CASE#: C15-2013-0072  
LOCATION: 7804 Heathercrest Circle



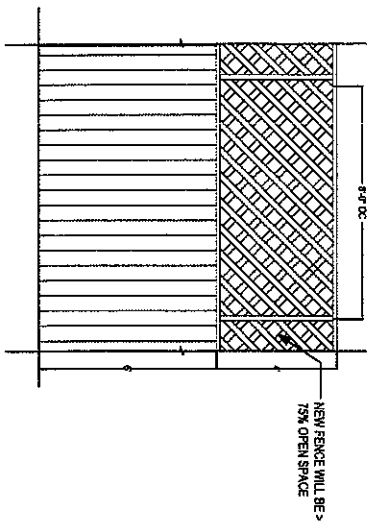
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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.



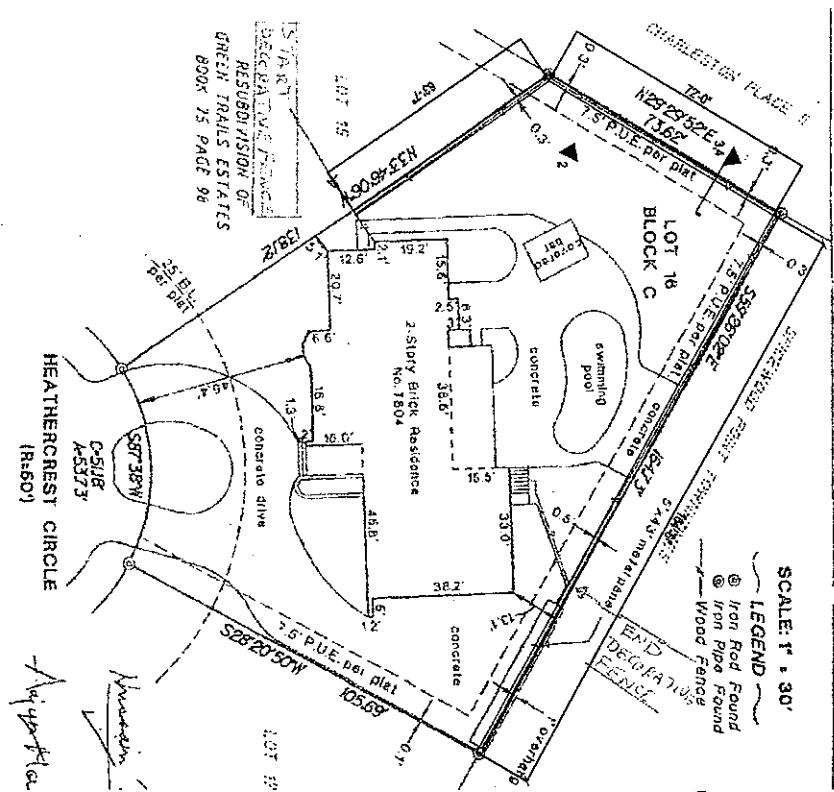
4 Ornamental Fence Section w/ Bracing  
Scale=1/4"=1'-0"

3 Ornamental Fence Section  
Scale=1/4"=1'-0"



2 Typical Elevation  
Scale=1/4"=1'-0"

1 Site Plan  
Scale=1/8"=1'-0"



ARCHITECTURAL SITE PLAN

8-15-12

**MALIK RESIDENCE**

**7804 HEATHERCREST**

**AUSTIN TX, 78731**

REGISTERED ARCHITECT

JAMES H. HOLLAND JR.

5232

STATE OF TEXAS



June 3, 2013

The Board of Adjustment  
City of Austin  
Travis County, TX

Re: Height variance for our neighbors' privacy fence at  
7804 Heathercrest Circle, Austin, Texas 78731

Dear BOA Members,

Our neighbors to the south, Hussain and Anjum Malik, own the SF-3 property, location at 7804 Heathercrest Circle, Austin, Texas 78731 (LOT 16 GREEN TRAILS ESTATES RESUB).

We understand that Mr. & Mrs. Malik have an application for fence height variance, to repair and maintain the privacy fence between our two properties. The 10-foot high fence has existed for the past 34 years, since its original installation in 1979.

Our two-story buildings, with balconies on the second floor, look towards the backyard of the Maliks' property and have a view of their swimming pool. Hot tub, cabana (to serve meals and drinks), porch, sun room, living room and kitchen. What would otherwise be direct and intrusive view from our condos (and especially our second floor balconies) to their personal living areas has so far been partially remedied through their 6-foot wooden fence, which is topped with a 46-inch (4 ft.) wooden trellis.

We believe that, were it not for this 10 ft. fence, our condo residents and the Maliks' living areas would have clear sight into each other's living spaces, taking away any sense of privacy on either side.

Malik's architect, Mr. James Holland has personally inspected the Malik's property and viewed the condo complex. Mr. Holland's recommendations are:

1. A 6 ft. fence with a 4 ft. trellis to stop the kids/intruders from coming to use the swimming pool in the Maliks' property.
2. A 12 ft. "Green Fence" for a critical 40 ft. section for complete privacy for residents in both properties.

Not having this trellis, and the resulting loss of privacy, will most certainly deteriorate the quality of life for both our residents and the Maliks, thus reducing both our property values.

We would like to strongly recommend that this 34-year-old fence between our two properties be allowed to be retained/constructed as recommended by the architect.

Very Respectfully Yours,

Paul Meisler  
Agent & Association Manager for Spicewood Point Townhomes



**Williamsburg Home Owners' Assoc., Inc.**

June 12, 2013

To whom it may concern:

I have discussed this matter with the Williamsburg Homeowners Association, Inc. (WHOA) Board of Directors and we have no objection to the Malik family's request for a variance freeing them from the City of Austin 6-foot fence-height restriction.

The Maliks are hereby granted permission from this Association to extend the height of their fence to ten (10) feet. Six feet of solid fence and four feet of trellis above it.

It certainly seems the Maliks have met that burden.

Yours Truly,

A handwritten signature in black ink, appearing to be "M. D.", is written over a horizontal line.

Pioneer Real Estate Services

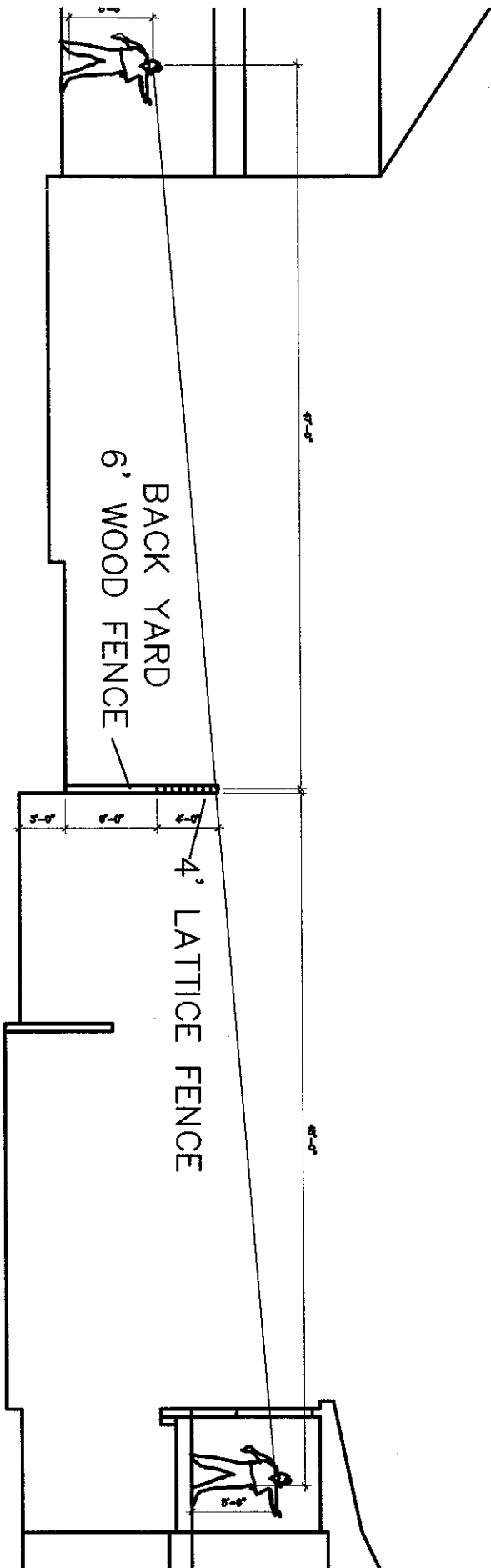
Management Company for the Williamsburg HOA, Inc.

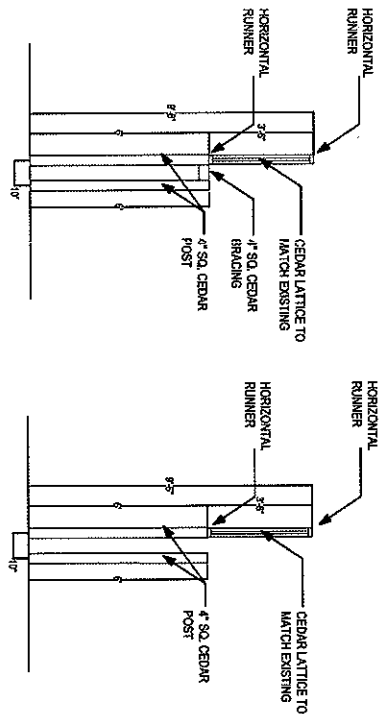


MALICK  
RESIDENCE

PUE

CONDO

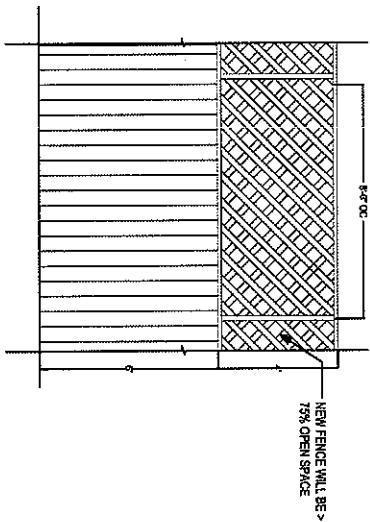




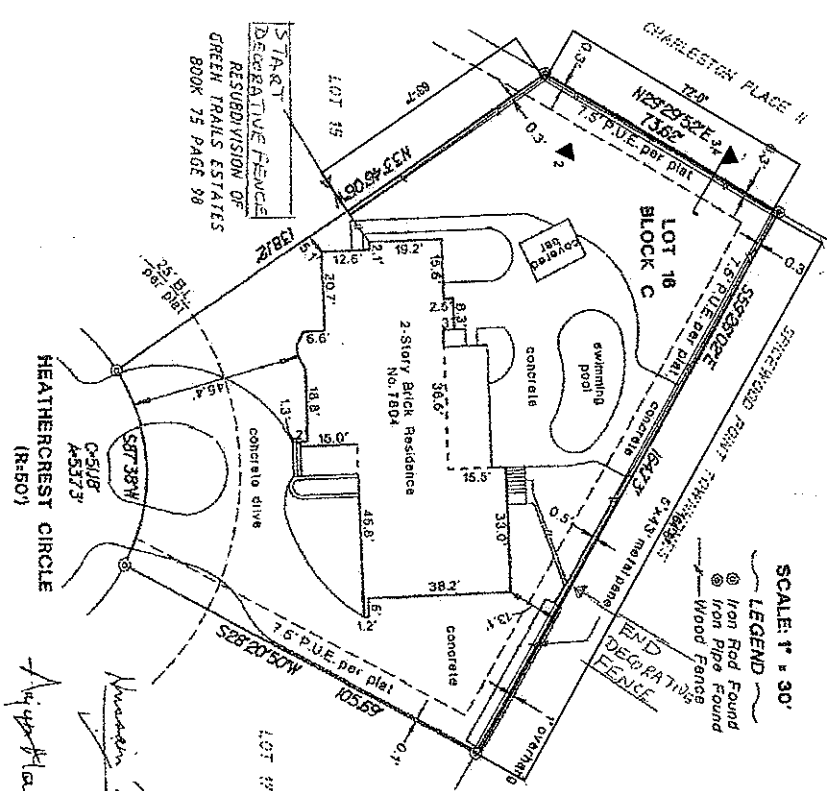
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3 Ornamental Fence Section  
Scale=1/4"=1'-0"



2 Typical Elevation  
Scale=1/4"=1'-0"



1 Site Plan  
Scale=1/32"=1'-0"



EXISTING FENCE  
NEW FENCE

**MALIK RESIDENCE**  
**7804 HEATHERCREST**  
**AUSTIN TX, 78731**

ARCHITECTURAL SITE PLAN

8-15-12





