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

ROW

CASE # C15-2013-0092

\# 11000683

TP-0200120103

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: 3107 E. Cesar Chavez

LEGAL DESCRIPTION: Subdivision – 2.953 Acres DOC# 2009049029

Lot(s)_____ Block_____ Outlot 65 _____ Division 0 _____

I/We Phil Moncada _____ on behalf of myself/ourselves as authorized agent for

_____ affirm that on 7-10 ,2013 ,

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

(check appropriate items below)

X ERECT ___ ATTACH ___ COMPLETE ___ REMODEL ___ MAINTAIN

A solid corrugated panel fence with an average height of 12 feet. The roadway elevation is approximately 18" -24" above the residential lot elevation.

in a GR-MU-CO-NP 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 follow ing findings (see page 5 of application for explanation of findings):

<u>**REASONABLE USE:**</u>

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

Owner believes the height restriction is unreasonable as it relates to the surrounding areas. He wants the fence for a sound barrier, light screening, security, and for an art project mural.

<u>**HARDSHIP:**</u>

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

Mr. Kleinman purchased the propoerty in 2009 and has cleaned up a lot of trash and debris from the site. He wants to be able to protect his residence and did not realize the amount of traffic and noise that exists along E. Cesar Chavez at this location.

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

No other residential properties in area that have this amount of frontage on a collector street. The fence will provide some privacy and security as well.

<u>**AREA CHARACTER:**</u>

3. The variance will not alter th e character of the area adjacent to the p roperty, 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:

Other businesses in area have fences that exceed 8 ft in height, including Brooke Elementary School that has a fence that is over 10 ft in height with barbwire on top.
Commercial business directly across the street has a fence that exceeds 8'. Browning Auto Parts has a fence that exceeds 10' in height.

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:

N/A

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 _Phil Moncada_ Mail Address 1301 S. 1 H 35 Ste. 204

City, State & Zip _Austin, TX 78741_

Printed _Phil Moncada_ Phone 512-621-8815 Date _7/9/13_

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 Box 13549 Au

City, State & Zip _Austin TX 78711_
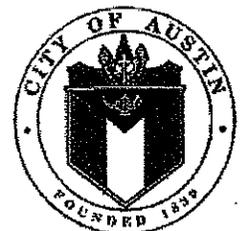
Printed _MICHAEL KLEINMAN_ Phone 512-837-5337 Date _7/9/13_

Owner: Auspro Enterprises, LP
Same address

4

CITY OF AUSTIN
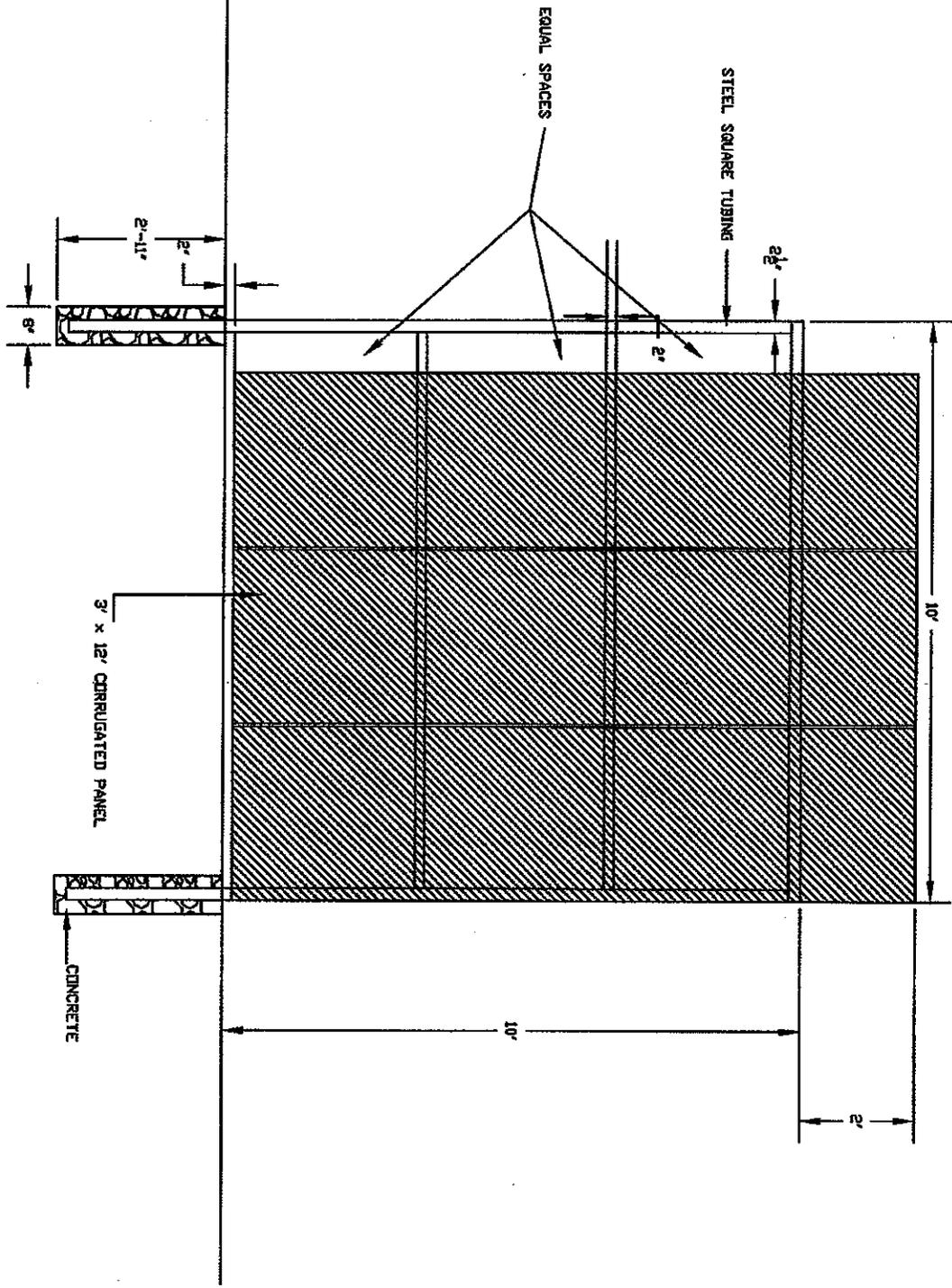## Board of Adjustment/Sign Review Board
Reconsideration - Decision Sheet

DATE: Monday, July 11, 2011   CASE NUMBER: C15-2011-0023

___Y___ Jeff Jack Motion to Deny
___N___ Michael Von Ohlen
___Y___ Nora Salinas
___Y___ Bryan King
___Y___ Leane Heldenfels, Chairman
___Y___ Clarke Hammond, Vice Chairman
___Y___ Heidi Goebel 2nd the Motion

Previously denied variance

APPLICANT: Phil Moncada

OWNER: Auspro Enterprises (Michael Kleinman)

ADDRESS: 3107 CESAR CHAVEZ ST

VARIANCE REQUESTED: The applicant has requested a variance to increase the maximum allowable fence height requirement of Section 25-2-899 (D) from 6 feet in height to 12 feet in height in order to erect a solid fence in a "GR-MU-CO-NP", Community Commercial – Mixed Use – Conditional Overlay – Mixed Use zoning district. The Land Development Code states that a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet.

BOARD'S DECISION: POSTPONED TO MAY 9, 2011 (NOTIFICATION ERROR)
May 9, 2011 - The public hearing was closed on Board Member Jeff Jack motion to Deny (no hardship), Board Member Bryan King second on a 7-0 vote; DENIED.

BOARD'S DECISION: June 13, 2011 POSTPONED TO JULY 11, 2011 DUE TO NOTIFICATION ERROR

BOARD'S DECISION: July 11, 2011 Board member Leane Heldenfels motion to reconsider request, Board member Michael Von Ohlen second on a 5-2 vote (Board members Bryan King and Clarke Hammond nay); RECONSIDERED. The public hearing was closed on Board Member Jeff Jack motion to Deny, Board Member Heidi Goebel second on a 6-1 vote (Board Member Michael Von Ohlen nay); DENIED.

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:
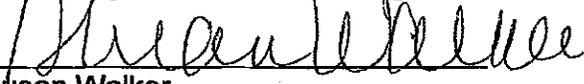
_____   _____
Susan Walker   Leane Heldenfels
Executive Liaison   Chairman

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

CASE # CI5-2011-0023
ROW # 10561820
TP-0200120103

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: __3107 E Cesar Chavez__

LEGAL DESCRIPTION: Subdivision – 2.953 Acres DOC # 2009049029

Lot(s)_____ Block_____ Outlot__65__ Division__0__

I/We _Phil Moncada_____ on behalf of myself/ourselves as authorized agent for

_____ affirm that on __February 10th__

__, _2011_____ ,

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

(check appropriate items below)

_X__ ERECT ___ ATTACH ___ COMPLETE ___ REMODEL ___ MAINTAIN

__A SOLID CORRUGATED PANEL FENCE WITH A HEIGHT OF 12 FT__

in a GR-MU-CO-NP_____ district.
    (zoning district)

2

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):

<u>REASONABLE USE:</u>

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

<u>Owner believes the height restriction is unreasonable as it relates to the surrounding areas. He wants the fence for a sound barrier, security and to be able to use the fence for an art project mural.</u>

<u>HARDSHIP:</u>

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

<u>Mr. Kleinman purchased the property in 2009 and has cleaned up a lot of trash and debris from the site. He want to be able to protect his residence and did not realize the amount of traffic and noise that exists along E Cesar Chavez at this location.</u>

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

<u>No other residential properties in area that have this amount of frontage on a collector street. The fence will provide some privacy and security as well.</u>

<u>AREA CHARACTER:</u>

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:

<u>Other businesses in area have fences that exceed 8 ft in height, including Brooke Elementary School that has a fence that is over 10 ft in height with barbwire on top</u>

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:

N/A
—

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:

N/A
—

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

N/A
—

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

N/A
—

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.

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 _Phil Moncada_ Mail Address 1301 S. I H 35 Ste. 204

City, State & Zip _Austin, TX 78741_

Printed _Phil Moncada_ Phone 512-621-8815 Date 2/9/11

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

Signed _[signature]_ Mail Address Box 13549 Au

City, State & Zip _Austin TX 78711_

Printed _MICHAEL KLEINMAN_ Phone 512-837-5337 Date 2/9/11

Owner: Auspro Enterprises, LP
Same address

SF-3-NP

SF-3-NP

E 3RD ST

NO-NP

CS-MU-CO-N

CS-CO-N

.O-MU-NP

GR-MU-NP

SF-3-NP

TILLERY SQ

TILLERY ST

-MU-CO-NP

CS-MU-CO-NP

CS-CO-NP

LI-CO-NP

GR-CO-NP

BROADWAY

LINDEN ST

E 2ND ST

CS-CO-NF

CS-MU-CO-NP

E CESAR CHAVEZ ST

GR-MU-CO-NP

CS-MU-CO-NP

GR-MU-CO-NP

SF-3-NP

SF-3-NP

P-NP

N

▨ SUBJECT TRACT

▢ ZONING BOUNDARY

BOARD OF ADJUSTMENTS

CASE#: C15-2011-0023
LOCATION: 3107 E CESAR CHAVEZ ST
GRID: K21
MANAGER: SUSAN WALKER

CITY OF AUSTIN
FOUNDED 1839

TOPOGRAPHIC SURVEY OF A PORTION OF
OUTLOT 65, DIVISION "O"
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS

EQUAL SPACES

STEEL SQUARE TUBING

2"-11"

2"

8"

2½"

2"

10'

3' x 12' CORRUGATED PANEL

CONCRETE

10'

2"