

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

**DATE:** Thursday, December 9, 2013

**CASE NUMBER:** C15-2013-0092

☒ Y \_\_\_\_\_ Jeff Jack  
☒ Y \_\_\_\_\_ Michael Von Ohlen **Motion to PP to Jan 13, 2014**  
☒ Y \_\_\_\_\_ Nora Salinas  
☒ Y \_\_\_\_\_ Bryan King  
☒ Y \_\_\_\_\_ Fred McGhee  
☒ Y \_\_\_\_\_ Melissa Hawthorne **2<sup>nd</sup> the Motion**  
☒ Y \_\_\_\_\_ Sallie Burchett  
☐ - \_\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** Phil Moncada

**OWNER:** Michael Kleinman

**ADDRESS:** 3107 CESAR CHAVEZ ST

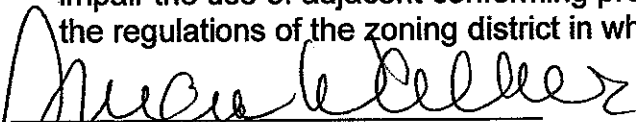
**VARIANCE REQUESTED:** The applicant has requested a variance to increase the maximum allowable fence height requirement of Section 25-2-899 (D) from 6 feet in height to 12 feet in height in order to erect a solid fence in a "GR-MU-CO-NP", Community Commercial – Mixed Use – Conditional Overlay – Neighborhood Plan 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.

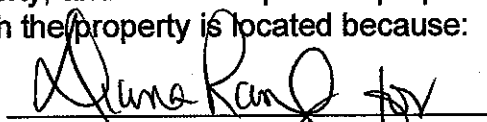
**BOARD'S DECISION:** POSTPONED TO DECEMBER 9, 2013 BY APPLICANT

**Dec 13, 2013 -** The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to January 13, 2014, Board Member Melissa Hawthorne second on a 7-0 vote; **POSTPONED TO JANUARY 13, 2014.**

**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

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

**DATE:** Thursday, November 14, 2013

**CASE NUMBER:** C15-2013-0092

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Nora Salinas  
\_\_\_\_ Bryan King  
\_\_\_\_ Fred McGhee  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Sallie Burchett  
\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** Phil Moncada

**OWNER:** Michael Kleinman

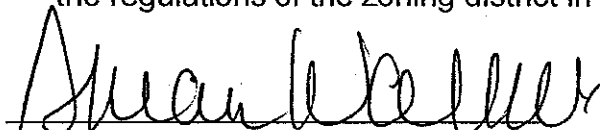
**ADDRESS:** 3107 CESAR CHAVEZ ST


**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 – Neighborhood Plan 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 DECEMBER 9, 2013 BY APPLICANT

**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

**Walker, Susan**

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**From:** Moncada Consulting [REDACTED]  
**Sent:** Tuesday, November 12, 2013 10:03 AM  
**To:** Walker, Susan  
**Cc:** Phil Moncada, [REDACTED]  
**Subject:** BOA Hearings for 3107 E. Cesar Chavez, 3315 Bridle Path and 304 W. Grady

Good Morning Susan,  
We are requesting a postponement for the following Board of Adjustments Hearings, as well to be place on the BOA agenda for 304 W. Grady;

3107 E. Cesar Chavez C15-2013-0092

We received a call from Daniel Llanes with the Neighborhood, we are meeting them on 11/23/13 to discuss the fence height.

3315 Bridle Path C15-2013-0103

We received a call from Blake Tollett with the West Austin Neighborhood Association regarding the additional impervious coverage at 3315 Bridle Path. Concerned with flooding.

304 W. Grady C15-2013-0089 68

Please place us on the agenda. Owner has agreed to remove the kitchen to secure approval on rear structure.

Please confirm receipt.  
Thank you for your time,  
April

Moncada Consulting  
1301 S. I-H 35 Suite # 204  
Austin, Texas 78741  
Phil's cell: 512-627-8815  
Office: 512-474-7377  
Fax: 512-474-4923

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; Case Number; and the contact person listed on the notice.

**Case Number: C15-2013-0092 – 3107 E Cesar Chavez**

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

**Public Hearing: Board of Adjustment, November 14th, 2013**

Daniel Llanes

Your Name (please print)

4907 Red Bluff Rd.

Your address(es) affected by this application

Daniel Llanes

Signature

11-6-13

Date

Daytime Telephone: 512-431-9665

Comments: We are opposed to  
variance. I am writing  
behalf of:

River Bluff Neigh. Association  
and  
Govalle/Johnston Terrace Neigh.  
Contact Teams

If you need assistance completing this application (general inquiries only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> 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 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:

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.

**HARDSHIP:**

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

Mr. Kleinman purchased the property 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.

**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:

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. I H 35 St. 204

City, State & Zip Austin, TX 78741

Printed Phil Moncada Phone 512-621-0815 Date 7/9/13

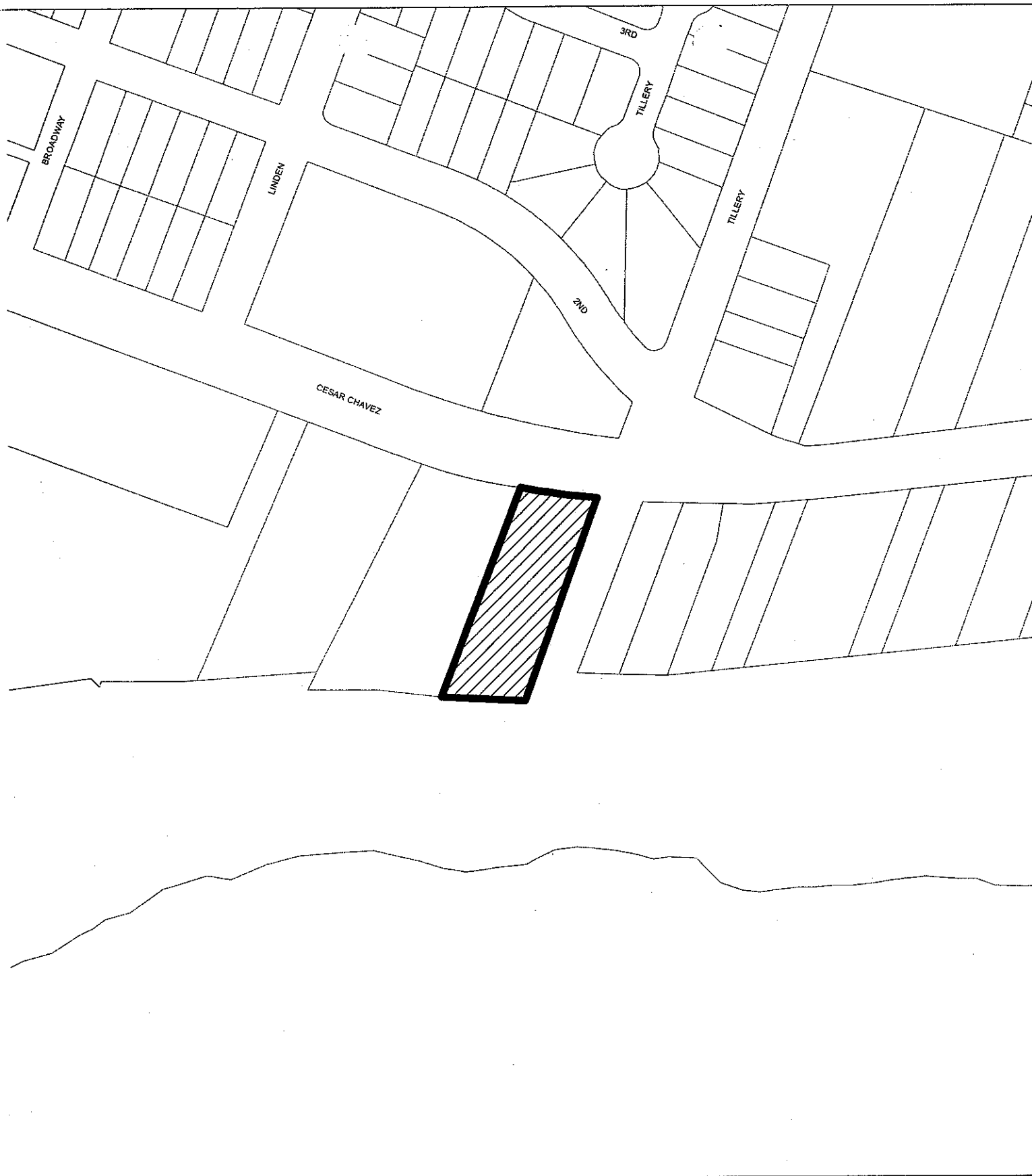
**OWNERS CERTIFICATE** - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Michael Kleinman Mail Address Box 13549 Av

City, State & Zip Austin TX 78711

Printed MICHAEL KLEINMAN Phone 512-837-5537 Date 7/9/13

↗  
owner: Auspro Enterprises, LP  
same address



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2013-0092  
LOCATION: 3107 E Cesar Chavez



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.



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

**DATE:** Monday, July 11, 2011

**CASE NUMBER:** C15-2011-0023

<input checked="" type="checkbox"/> Y	Jeff Jack	Motion to Deny
<input checked="" type="checkbox"/> N	Michael Von Ohlen	
<input checked="" type="checkbox"/> Y	Nora Salinas	
<input checked="" type="checkbox"/> Y	Bryan King	
<input checked="" type="checkbox"/> Y	Leane Heldenfels,	Chairman
<input checked="" type="checkbox"/> Y	Clarke Hammond,	Vice Chairman
<input checked="" type="checkbox"/> Y	Heidi Goebel	2 <sup>nd</sup> 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**.

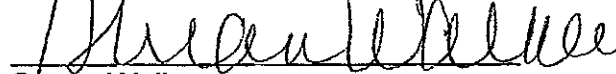
**BOARD'S DECISION:** June 13, 2011 POSTPONED TO JULY 11, 2011 DUE TO NOTIFICATION ERROR

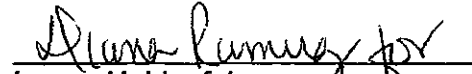
**BOARD'S DECISION:** July 11, 2011 Board member Leane Heldenfels motion to reconsider request, Board member Michael Von Ohlen second on a 5-2 vote (Board members Bryan King and Clarke Hammond nay); **RECONSIDERED**. The public hearing was closed on Board Member Jeff Jack motion to Deny, Board Member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

  
Leane Heldenfels  
Chairman

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).

CASE #

ROW #

C15-2011-0023

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)

**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:

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.

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**HARDSHIP:**

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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.

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- (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.

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**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:

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

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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:

N/A

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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

---

<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 situated.</p>
---

**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. 1 H 35 St. 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 Michael Kleinman Mail Address Box 13549 Av

City, State & Zip Austin TX 78711

Printed MICHAEL KLEINMAN Phone 512-837-5337 Date 2/9/11

Owner: Auspro Enterprises, LP  
Same address



P-NP



SUBJECT TRACT



ZONING BOUNDARY

## BOARD OF ADJUSTMENTS

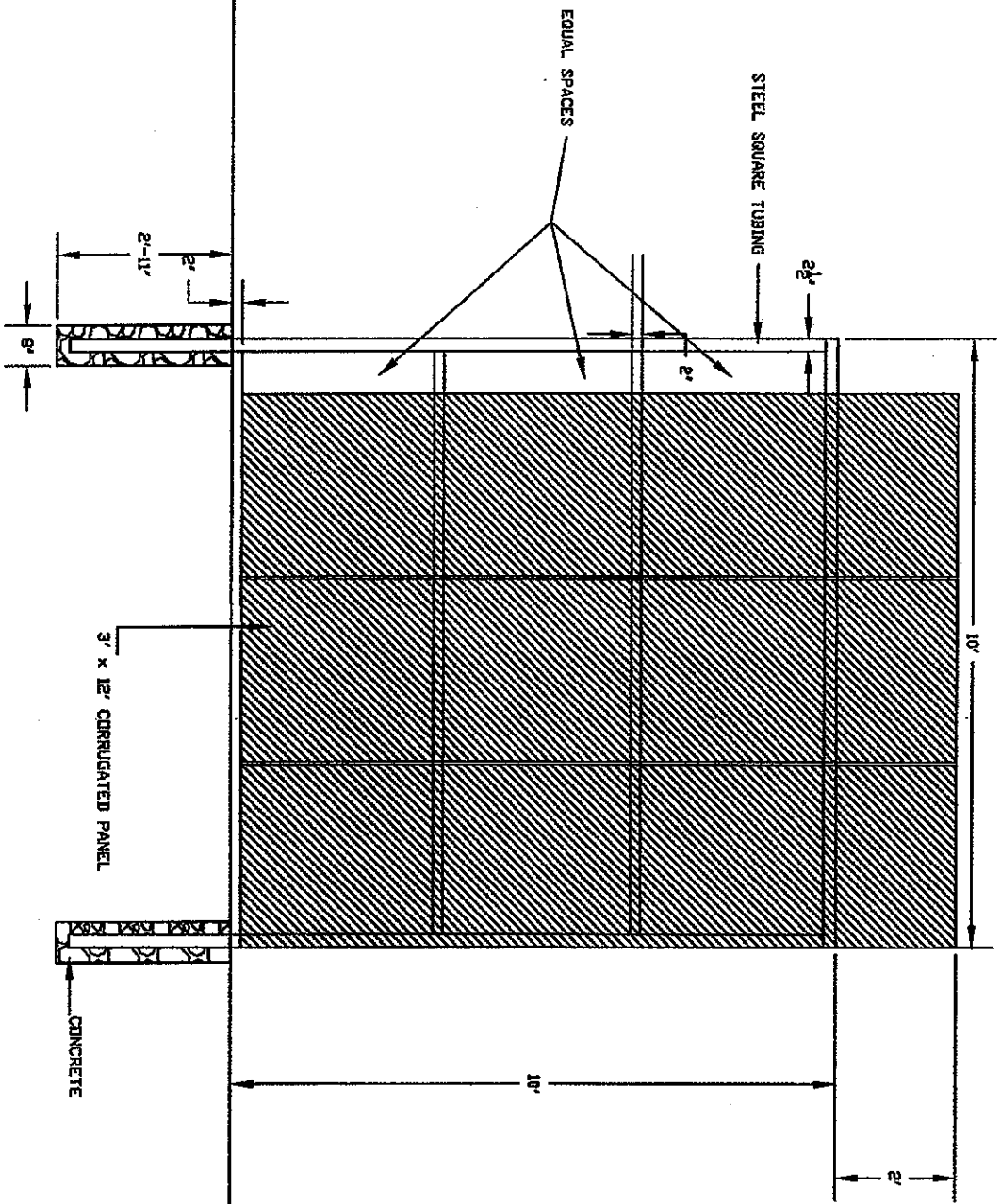
CASE#: C15-2011-0023  
 LOCATION: 3107 E CESAR CHAVEZ ST  
 GRID: K21  
 MANAGER: SUSAN WALKER



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







AUTO GATE AUSTIN INC.	PAINT COLOR:	DRAWING #:	
JOB NAME: PLANET K FENCE	AMOUNT:	DATE: 1-5-10	