



63  
1







N



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

CASE#: C15-2015-0102  
Address: 1403 W 45TH ST



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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 200'

3  
2

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

**DATE:** Monday, November 9, 2015

**CASE NUMBER:** C15-2015-0102

\_\_\_\_ Brooke Bailey  
\_\_\_\_ Michael Benaglio  
\_\_\_\_ William Burkhardt  
\_\_\_\_ Eric Goff  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Don Leighton-Burwell  
\_\_\_\_ Melissa Neslund  
\_\_\_\_ James Valadez  
\_\_\_\_ Michael Von Ohlen

**APPLICANT:** David Cancialosi

**OWNER:** Mark Kudela

**ADDRESS:** 1403 45TH ST Unit LOT10

**VARIANCE REQUESTED:** The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

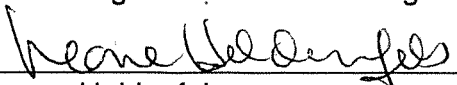
- A. decrease the front setback from 25 feet (required) to 21 feet (requested); and to
- B. decrease the minimum lot size from 5,750 (required) to 2,117 (requested); and to
- C. decrease the lot width from 50 feet (required) to 35 feet (requested)

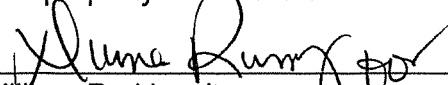
in order to construct a single family home in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION:** POSTPONED TO September 14, 2015 AT THE APPLICANT'S REQUEST; SEPT 14, 2015 POSTPONED TO October 12, 2015 AT THE APPLICANT'S REQUEST; OCT 12, 2015 POSTPONED TO 11/9/15 BY STAFF TO RESOLVE PENDING AUSTIN ENERGY ISSUES; Nov 9 POSTPONED TO DECEMBER 14, 2015 BY APPLICANT TO RESOLVE PENDING AE ISSUES

**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:

  
\_\_\_\_\_  
Leane Heldenfels  
Executive Liaison

  
\_\_\_\_\_  
William Burkhardt  
Chairman

63  
3

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

**DATE: Monday, October 12, 2015**

**CASE NUMBER: C15-2015-0102**

☐ Y ☐ Brooke Bailey  
☐ Y ☐ Michael Benaglio  
☐ Y ☐ William Burkhardt -2<sup>nd</sup> the Motion  
☐ N/A ☐ Eric Goff  
☐ Y ☐ Vincent Harding  
☐ Y ☐ Melissa Hawthorne - Motion to PP to 11/9/15  
☐ Y ☐ Don Leighton-Burwell  
☐ Y ☐ Melissa Neslund  
☐ Y ☐ James Valadez  
☐ OUT ☐ Michael Von Ohlen

**APPLICANT: David Cancialosi**

**OWNER: Mark Kudela**

**ADDRESS: 1403 45TH ST Unit LOT10**

**VARIANCE REQUESTED:** The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

- A. decrease the front setback from 25 feet (required) to 21 feet (requested);  
and to  
B. decrease the minimum lot size from 5,750 (required) to 2,117 (requested);  
and to  
C. decrease the lot width from 50 feet (required) to 35 feet (requested)  
in order to construct a single family home in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION:** POSTPONED TO September 14, 2015 AT THE APPLICANT'S REQUEST; SEPT 14, 2015 POSTPONED TO October 12, 2015 AT THE APPLICANT'S REQUEST; OCT 12, 2015 POSTPONED TO 11/9/15 BY STAFF TO RESOLVE PENDING AUSTIN ENERGY ISSUES

**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:

  
Leane Heldenfels  
Executive Liaison

  
Vincent Harding  
Chairman

13  
4

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

**DATE:** Monday, September 14, 2015

**CASE NUMBER:** C15-2015-0102

\_\_\_\_ Brooke Bailey  
\_\_\_\_ Michael Benaglio  
\_\_\_\_ William Burkhardt  
\_\_\_\_ n/a Eric Goff  
\_\_\_\_ Vincent Harding (Chair)  
\_\_\_\_ Melissa Hawthorne (Vice-Chair)  
\_\_\_\_ Don Leighton-Burwell  
\_\_\_\_ out Melissa Neslund  
\_\_\_\_ James Valadez  
\_\_\_\_ Michael Von Ohlen

**APPLICANT:** David Cancialosi

**OWNER:** Mark Kudela

**ADDRESS:** 1403 45TH ST Unit LOT10

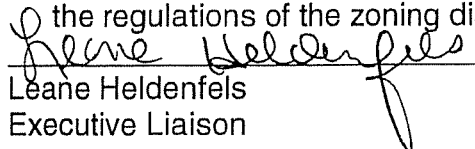
**VARIANCE REQUESTED:** The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

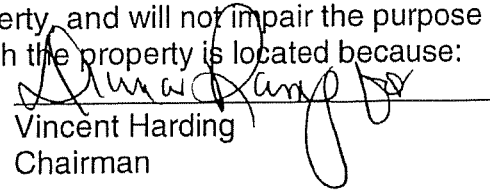
- A. decrease the front setback from 25 feet (required) to 21 feet (requested); and to
  - B. decrease the minimum lot size from 5,750 (required) to 2,117 (requested); and to
  - C. decrease the lot width from 50 feet (required) to 35 feet (requested)
- in order to construct a single family home in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION:** POSTPONED TO September 14, 2015 AT THE APPLICANT'S REQUEST; SEPT 14, 2015 POSTPONED TO October 12, 2015 AT THE APPLICANT'S REQUEST

**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:

  
Leane Heldenfels  
Executive Liaison

  
Vincent Harding  
Chairman

23  
/5

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

**DATE:** Monday, July 13, 2015

**CASE NUMBER:** C15-2015-0102

\_\_\_\_\_ Angela Atwood  
\_\_\_\_\_ Michael Benaglio  
\_\_\_\_\_ William Burkhardt  
\_\_\_\_\_ Vincent Harding  
\_\_\_\_\_ Melissa Hawthorne  
\_\_\_\_\_ Don Leighton-Burwell  
\_\_\_\_\_ Melissa Neslund  
\_\_\_\_\_ James Valadez  
\_\_\_\_\_ Michael Von Ohlen

**APPLICANT:** David Cancialosi

**OWNER:** Mark Kudela

**ADDRESS:** 1403 45TH ST Unit LOT10

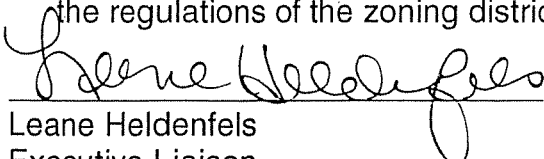
**VARIANCE REQUESTED:** The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

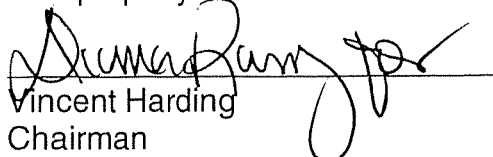
- A. decrease the front setback from 25 feet (required) to 21 feet (requested); and to
  - B. decrease the minimum lot size from 5,750 (required) to 2,117 (requested); and to
  - C. decrease the lot width from 50 feet (required) to 35 feet (requested)
- in order to construct a single family home in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION:** POSTPONED TO September 14, 2015 AT THE APPLICANT'S REQUEST

**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:

  
Leane Heldenfels  
Executive Liaison

  
Vincent Harding  
Chairman

Revised

CASE# 015-2015-0102  
ROW# \_\_\_\_\_  
TAX# \_\_\_\_\_

13  
6

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: 1403 W. 45<sup>th</sup> St

LEGAL DESCRIPTION: Subdivision – E. 35 st lot 10 Blk B

I/We David Cancialosi on behalf of myself/ourselves as  
authorized agent for Mark Kudela affirm that on May 18, 2015, hereby apply for a  
hearing before the Board of Adjustment for consideration to:

(check appropriate items below and state what portion of the Land Development Code  
you are seeking a variance from)

X ERECT \_\_\_\_\_ ATTACH \_\_\_\_\_ COMPLETE \_\_\_\_\_ REMODEL \_\_\_\_\_  
MAINTAIN

Erect single family residence and parking area in SF3 zoned lot.

1) Setbacks

Allow 21' front setback

2) Lot Size

Allow 2117 SF lot

3) Lot Frontage

Allow 35' lot frontage

in a SF3 district.

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 is attempting to develop the site by erecting a single-family residence, but cannot do so due to the lot size and relative SF-3 performance standards. Literal application of the SF3 standards do not allow a reasonable use of the property despite the City of Austin assigning residential zoning to the site as far back as 1948 when it extended utility service to the site.

The city further recognized the site's legal status by approving a land status determination in 2010 (C8I-2010-0304). The owner has sought BOA approval in 2011 for similar requests and was denied. The owner recently sought a 245 Vested Rights determination and was denied.

The owner purchased the property in full reliance that the site could be developed. Failure to grant relief to a substandard lot that the City knowingly zoned and subsequently recognized as a legal tract prohibits any reasonable use on a property that is actively taxed by Travis County.

**HARDSHIP:**

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

The 2,117 SF lot is small by any standard. The property cannot allow construction of a reasonably sized single family residence without some degree of flexibility approved by the Board of Adjustments. The owner is asking the Board to recognize that the application of SF-3 zoning setbacks, lot width, and lot size requirements induce a significant hardship on this site.

The owner is proposing a simple 2 story residential structure on the site that will be in keeping with surrounding residential uses; however, a 21' front setback encroachment are also requested to facilitate a reasonable project. This will allow a reasonable side and rear yard area.

Further, the tract's 2,117 SF size cannot be amended via resubdivision at this point. There is no adjacent land to acquire.

The city's recognition of this site as a legal tract in 2010 and the city's prior application of A or AA zoning then SF-3 zoning further suggests a true hardships exists in that a property has a reasonable expectation to rely on entitlements applied by the Municipality.

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

There are no other know vacant lots with this issue in the immediate area

13/8

**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 project is a small residential project that proposes the least amount of impact on the site or adjacent properties

The proposed front and side setback encroachments are in keeping with existing legal non-complying structures found throughout the neighborhood as well as new homes that have been allowed to utilize setback averaging for front yard setback only.

Thus, there is no expected impairment of adjacent uses nor the purpose of the zoning regulations.

---

<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.
--

**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 David Cancialosi Mail Address 105 w. Riverside #225

City, State & Zip Austin Texas 78704

Printed David Cancialosi Phone 512-799-2401 May 18, 2015

**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 Mark Kudela

Printed Mark Kudela



13/9

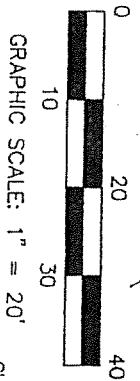
**BEARING BASIS:**  
THE SUBJECT PLAT FOR THIS SUBDIVISION DOES NOT REFERENCE ANY BEARINGS. BEARINGS FOR THIS SURVEY ARE BASED ON HOLDING THE WEST LINE OF THE ADJOINING PLAT (MURRAY SUBDIVISION - N30°10'00"E) AND USING THE RECORD INTERIOR ANGLE (89°15') AS SHOWN ON THE SUBJECT PLAT TO ESTABLISH A BEARING OF N59°05'00"W ALONG THE SOUTH LOT LINE OF LOT 9.

BLOCK 8 OF ROSEDALE "B"  
VOL. 3, PG. 191, P.R.T.C.T.

# ROSEDALE AVENUE (50' R.O.W. WIDTH)

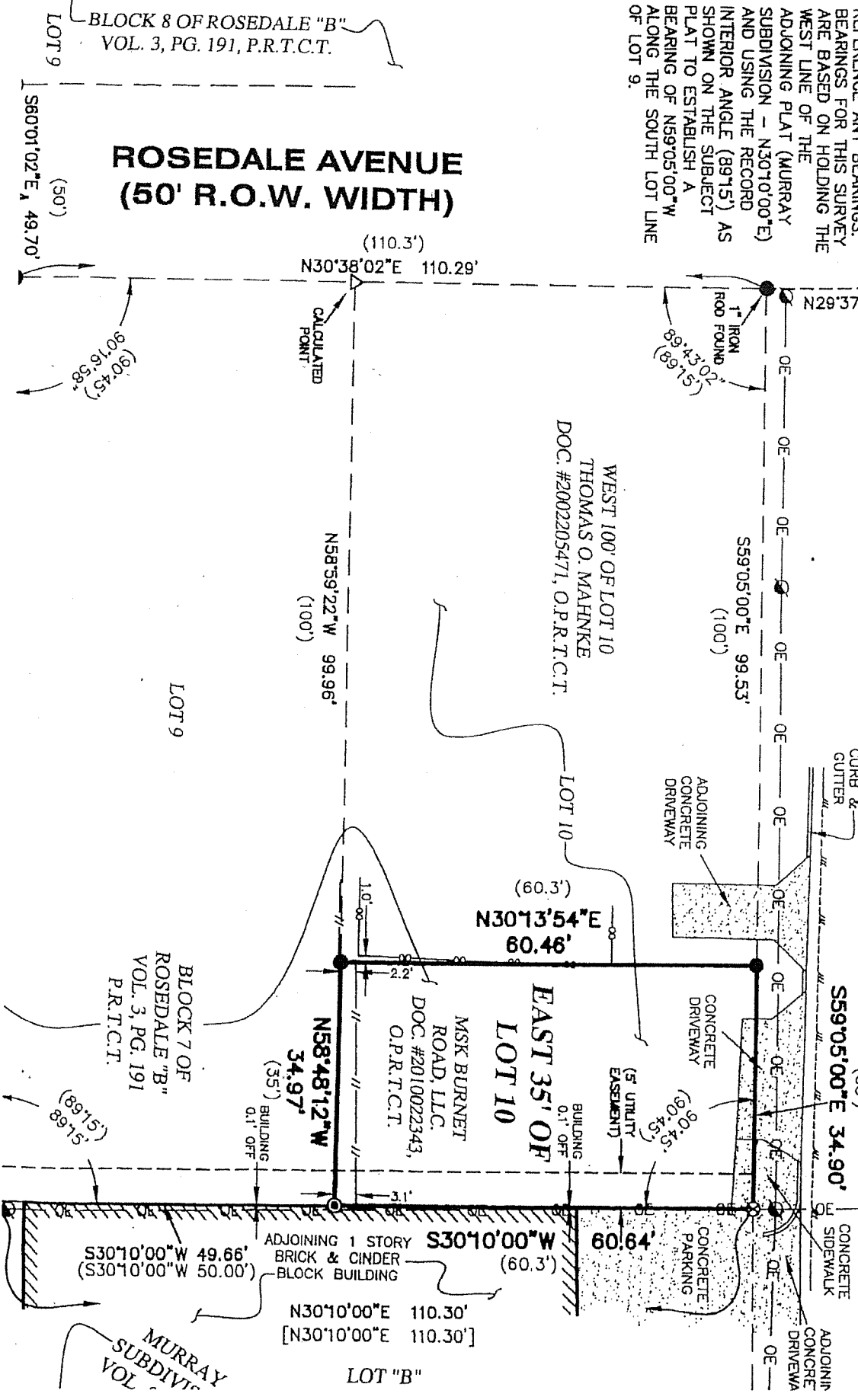
BLOCK 24 OF  
ROSEDALE "F"  
VOL. 3, PG. 246  
P.R.T.C.T.

LOT 20



- 2) PROPERTY ADDRESS: 45TH STREET, AUSTIN TEXAS
- 3) PER MONUMENTATION FOUND ON THE GROUND, IT APPEARS THAT R.O.W. WIDENING HAS OCCURRED ALONG THE NORTH R.O.W. LINE OF 45TH STREET
- 4) THERE WERE NO BUILDINGS ON THIS TRACT AT THE TIME OF THE ON-THE-GROUND SURVEY.

## 45th STREET (R.O.W. WIDTH VARIES) (60' R.O.W. PER PLAT)





City of Austin  
Planning and Development Review  
Land Status Determination  
1995 Rule Platting Exception

December 01, 2010

File Number: C8I-2010-0304

Address: 1403 W 45TH ST Unit LOT10

Tax Parcel I.D. # 0223021413 (portion) Tax Map Date: 08/19/2009

The Watershed Protections & Development Review has determined that this parcel, as described in the attached description and map, **IS EXCEPTED FROM THE REQUIREMENT TO PLAT** in accordance with the Land Development Code, Section 25-4-2(C), and is eligible to receive utility service.

The parcel of land consists of five acres or less, and is described as being **the east thirty-five feet (E35')** of Lot 10, Block 7, Rosedale B, called Tract 2 in the current deed, recorded on Feb 17, 2010, in Document #2010022343, Travis County Deed Records. This parcel existed in its current configuration on January 1, 1995, as evidenced by a deed recorded on Sep 29, 1972, in Volume 4418, Page 1107, Travis County Deed Records. The parcel was lawfully receiving utility service, as defined in Section 212.012 of the Texas Local Government Code, on January 1, 1995, as evidenced by water service on Aug 02, 1948. The parcel meets the requirements of the Land Development Code for roadway frontage and is located on an existing street.

Additional Notes/Conditions:  
NONE

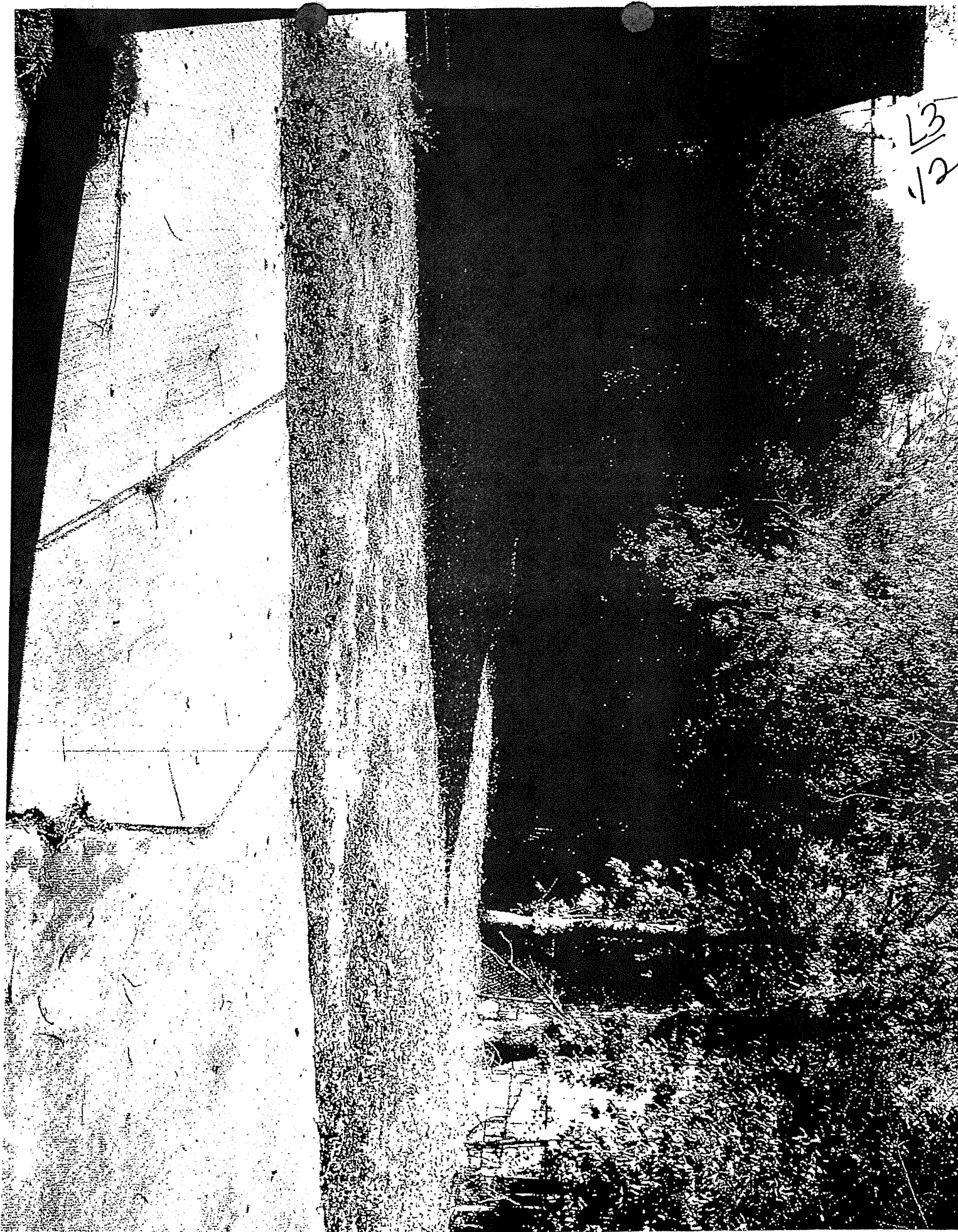
This determination of the status of the property is based on the application of Chapter 212, Municipal Regulation of Subdivisions and Property Development, Texas Local Government Code; and the City of Austin Land Development Code, Chapter 25-4, Subdivision. Recognition hereby does not imply approval of any other portion of the City Code or any other regulation.

By: 

**Daniel Word**, Representative of the Director  
**Planning and Development Review**

L3  
10

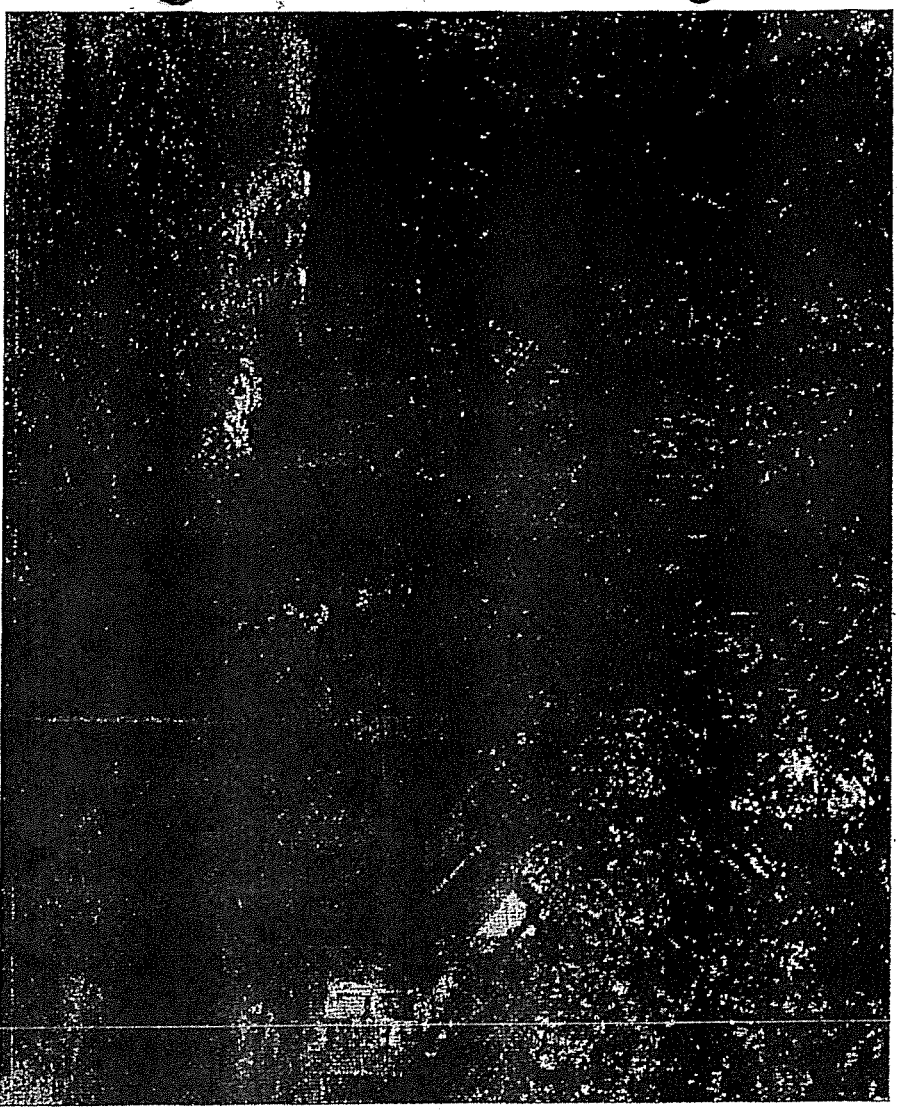




Google maps


Address 1416 West 45th Street  
Address is approximate

3/13



LOT AND HOUSE TO EAST

**Save trees. Go green!**  
Download Google Maps on your  
phone at [google.com/gmm](http://google.com/gmm)

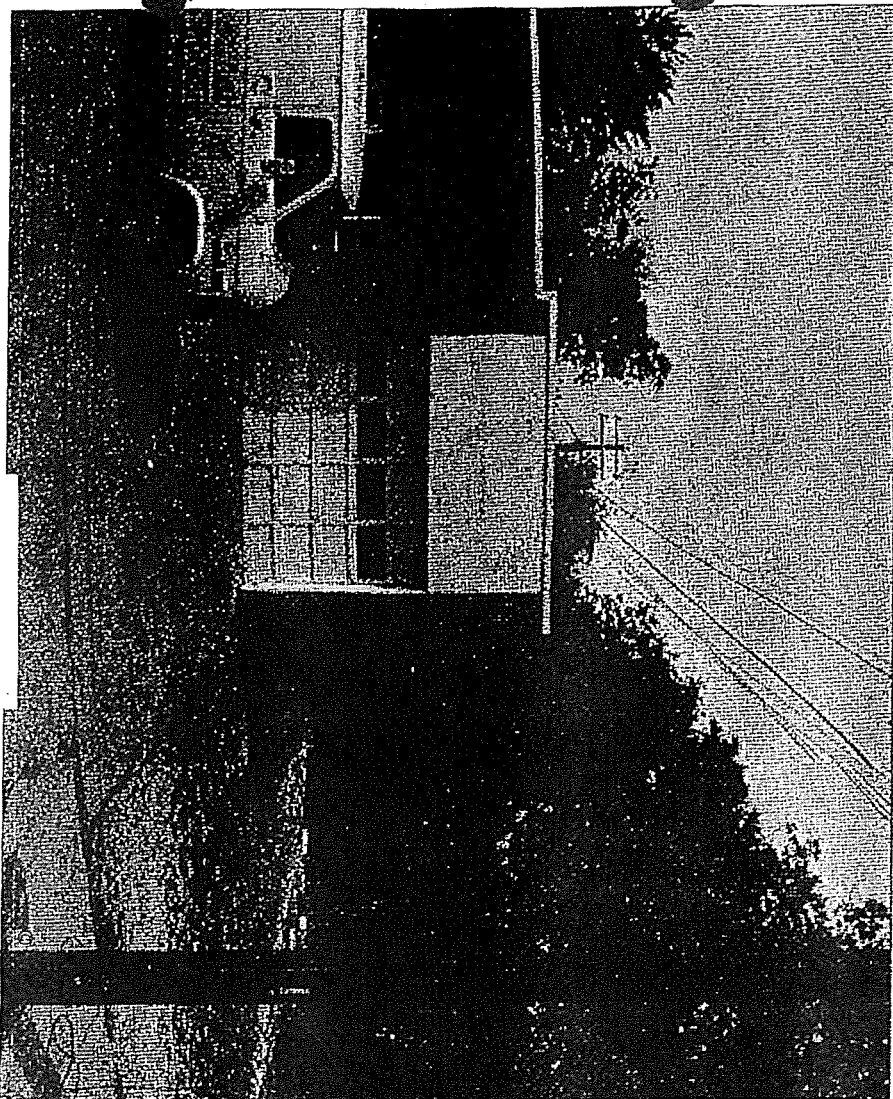


Google maps

Address 1416 West 45th Street

Address is approximate

27/2



LOT TO WEST

**Save trees. Go green!**

Download Google Maps on your  
phone at [google.com/gmm](http://google.com/gmm)



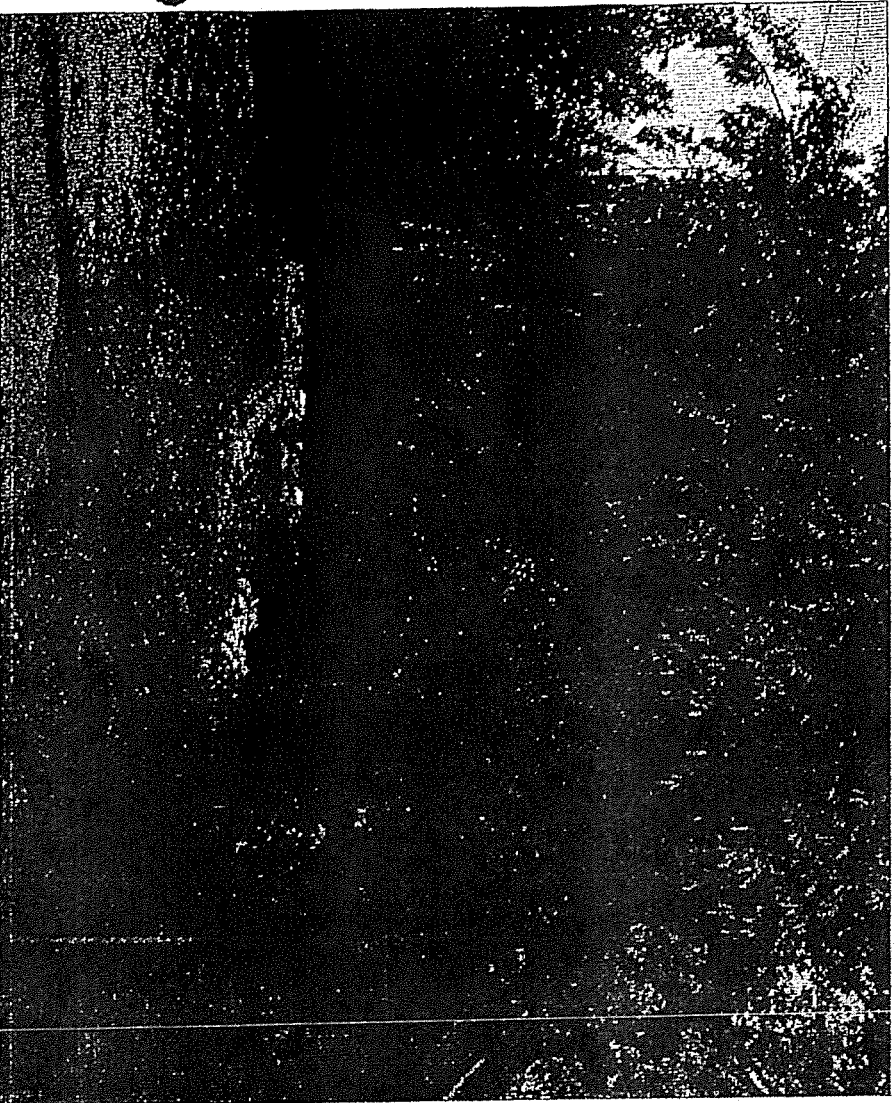


Google maps

Address 1416 West 45th Street


Address is approximate

5/27/51



LOT: 1405 W. 45th St

**Save trees. Go green!**  
Download Google Maps on your  
phone at [google.com/gmm](http://google.com/gmm)

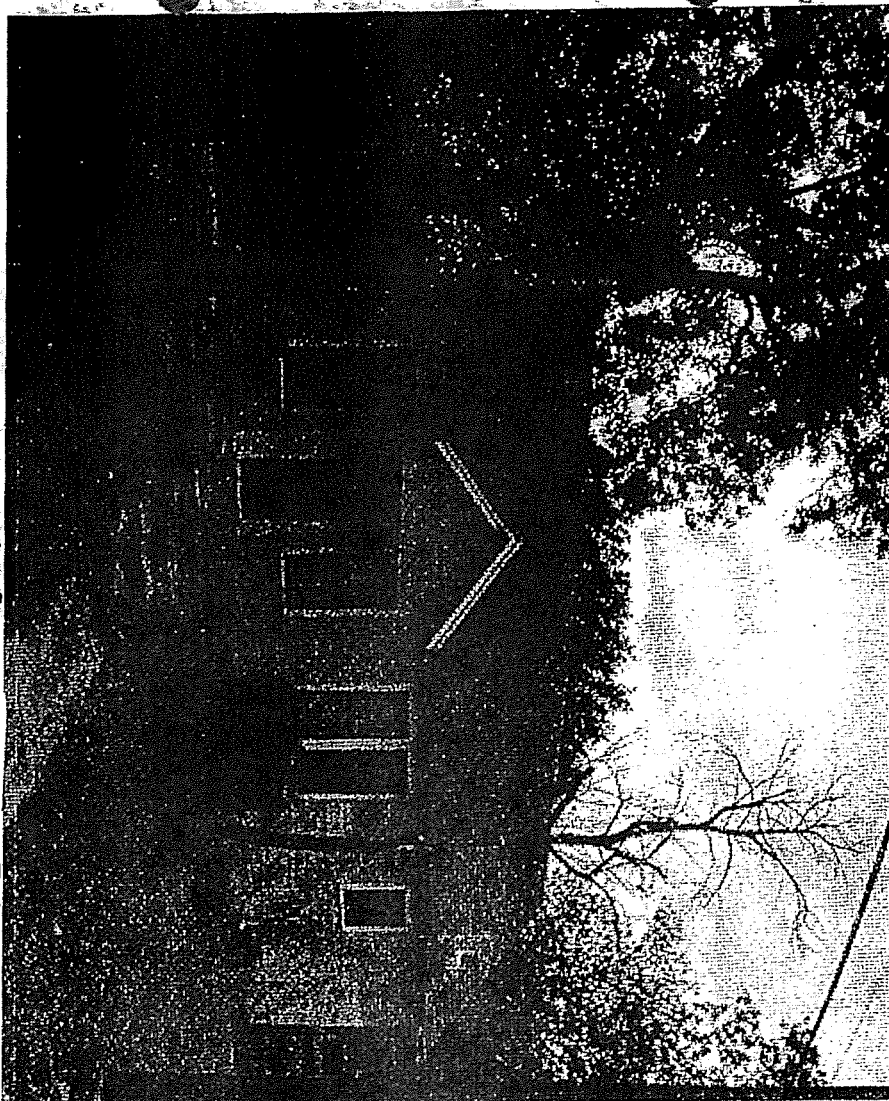


Google maps

Address 1416 West 45th Street

Address is approximate

**Save trees. Go green!**  
Download Google Maps on your  
phone at [google.com/gmm](http://google.com/gmm)



HOUSE TO THE EAST  
OF LOT.





13

17

L3  
18

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

**DATE: Monday, MARCH 9, 2011**

**CASE NUMBER: C15-2011-0002**

☐ Y ☐ Jeff Jack  
☐ Michael Von Ohlen **ABSENT**  
☐ Y ☐ Nora Salinas  
☐ Y ☐ Bryan King **Motion to PP April 11, 2011**  
☐ Y ☐ Leane Heldenfels, Chairman  
☐ Y ☐ Clarke Hammond, Vice Chairman **2<sup>nd</sup>**  
☐ N ☐ Heidi Goebel  
☐ Y ☐ Melissa Hawthorne

**APPLICANT: Shaw Hamilton**

**OWNER: Mark Kudela**

**ADDRESS: 1403 45TH ST**

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-492 (D) from 5,750 square feet to 2,110 square feet in order to erect a single-family residence in an "SF-3", Family Residence zoning district.

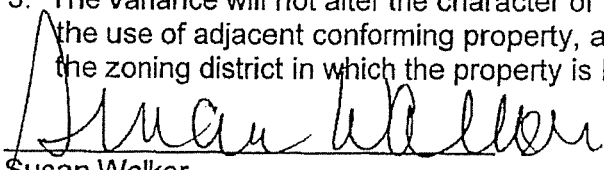
The applicant has requested a variance to decrease the minimum lot width requirement of Section 25-2-492 (D) from 50 feet to 34.97 feet in order to erect a single-family residence in an "SF-3", Family Residence zoning district.

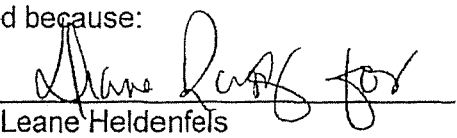
The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 21 feet in order to erect a single-family residence in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION: Postponed to April 11, 2011 to meet with neighbors; Vote 6-1, POSTPONE TO APRIL 11, 2011**

**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

## 215 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 board or commission (or 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: C15-2011-0002 - 1403 West 45 Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, March 9th, 2011

Melanie McBurney

Your Name (please print)

4400 Burnett

Your address(es) affected by this application

[Signature]

Signature

Date

Daytime Telephone:

797.3647

28 Feb. 2011

Comments:

That lot is TRVY! A cute little cottage might work though.

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

☐ I am in favor  
☒ I object

3/2

# PUBLIC HEARING INFORMATION

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- 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.

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Case Number: C15-2011-0002 - 1403 West 45 Street  
Contact: Susan Walker, 512-974-2202  
Public Hearing: Board of Adjustment, March 9th, 2011

MORRIS HOWEVER

Your Name (please print)

1407 W. 46TH 78756

Your Address(es) affected by this application

*[Signature]*

Signature

Date

02 MAR. 11

Daytime Telephone: 512.467.2626

Comments: (A) WOULD RATHER SEE RESIDENCE

THAN EMPTY LOT

(B) FURTHERS CITY GOAL OF URBAN DENSITY

(C) ADJOINING LOT AT CORNER OF 45TH &

POSEDGE SEEMS TO HAVE HIGH F.A.R., W/

NO LL EFFECT. THIS PROPOSED PROJECT

WOULD NOT NEGATIVELY AFFECT EXISTING RESI

THAT ADJOIN WEST SOUTHW. SIDE.

THANKS SUSAN!

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

MY WIFE & I ARE  
32 YR. POSEGE  
RESIDENTS, BTW.

(3902 TENKAWA TR.)

2/2

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Case Number: C15-2011-0002 - 1403 West 45 Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, February 14th, 2011

CHRISTOPHER E. BYRTER

Your Name (please print)

44417 ROSEDALE AVENUE

Your address (affected by this application)

2-5-11

Signature

Date

Daytime Telephone: 512-586-4704

Comments: THIS LOT(S) IS DEFICIENT

OF 3,633 SQUARE FEET TO SUPPORT THIS

PROPOSED DEVELOPMENT. CURRENT CODE

WAS CREATED TO PREVENT SUCH DEVELOPMENT.

THE EXISTING "OFFICE

STRUCTURE" BUILDING ON PROPERTY WHICH

NEARLY IMPAIRS MY PROPERTY VALUE. ADDITION

ALLY DEVELOPMENT IS NOT NEEDED AS THERE

ARE PLenty OF AVAILABLE HOMES CURRENTLY

FOR SALE IN ROSEDALE.

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Susan Walker

P. O. Box 1088  
Austin, TX 78767-8810

3/26

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Case Number: C15-2011-0002 - 1403 West 45 Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, February 14th, 2011

MARK BRADLEY WILSON

Your Name (please print)

☐ I am in favor  
☒ I object

4402 ROSEDALE AVE. AUSTIN, TX 78756

Your address(es) affected by this application



Signature

Date

Daytime Telephone: 536-3035

Comments: This is a tiny sliver of

land that is completely inappropriate  
for a single family residence.  
In addition to variances for lot size  
and setbacks, building anything of  
these size on it would make a mockery  
of the Hillmanston standards

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City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-8810



Walker, Susan

L3  
23

From: [REDACTED] on behalf of Chris Allen [REDACTED]  
Sent: Friday, February 11, 2011 8:06 AM  
To: Walker, Susan; shaw hamilton  
Subject: c15-2011-0002 1403 W. 45th St.

Susan (with cc: to Shaw Hamilton):

Given the unusually short notice to the NA and the adjacent neighbors for this case, it would seem appropriate for staff to initiate a postponement of the hearing. Notices were received on Tuesday and Wednesday for a hearing set for next Monday, which does not allow us reasonable time to properly study the situation.

Let me know ASAP if there is any issue with postponement, as we would need to get word out to quite a few people.

Shaw- this could have been avoided by giving the NA a heads up when you started the process. We could have discussed this with you and the adjacent neighbors weeks ago and the hearing could have proceeded as planned, regardless of notice from the City.

Thank you!

Chris Allen  
Chair, RNA zoning comm.

Chris Allen  
Architect  
some assembly required  
[www.somearchitect.com](http://www.somearchitect.com)  
(12) 467-2888  
[iris@somearchitect.com](mailto:iris@somearchitect.com)

See Revised

CASE #

015-2011-00023  
ROW-10535830  
TP-0223021410  
24

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.

1403  
STREET ADDRESS: 1403 West 45<sup>th</sup> st

LEGAL DESCRIPTION: Subdivision – Rosedale B

Lot(s) east 35 ft. of lot 10 Block B Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Shaw Hamilton on behalf of myself/ourselves as authorized agent for

Mark Kudela affirm that on Dec. 14, 2010, hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

Erect a new single family home:

Variance requested : \_\_\_\_\_ Lot size 2117 sq. ft. Lot frontage 34.97 ft.

~~Rear setback 9' 11 1/2"~~ FRONT SETBACK 21'

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:

The Lot was established in 1948 prior to regulations and needs relief from strict enforcement of the regulations in order to make this lot developable.

**HARDSHIP:**

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

[REDACTED] The property to the east is commercial, [REDACTED] the entire property would be a compatibility setback, [REDACTED]. The property to the west is single family and have no desire to buy.

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

This is the only small lot left in this area that is not developed. The remainder of lots in this area meet the minimum lot size and are fully developed. This is an older area of town that was developed in 1930's and 1940's

**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 area is a combination of single family and commercial uses. Both roadways adjacent to this lot are well traveled (45<sup>th</sup> St and Burnet Rd.) The driveway is already existing on 45<sup>th</sup> St. for this lot and would not impact adjacent properties.

**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:

13  
26

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 6301 Mercedes Bend

City, State & Zip Austin, Texas 78759

Printed Mark Kudela Phone (512) 554-3150 Date 11/3/2010

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

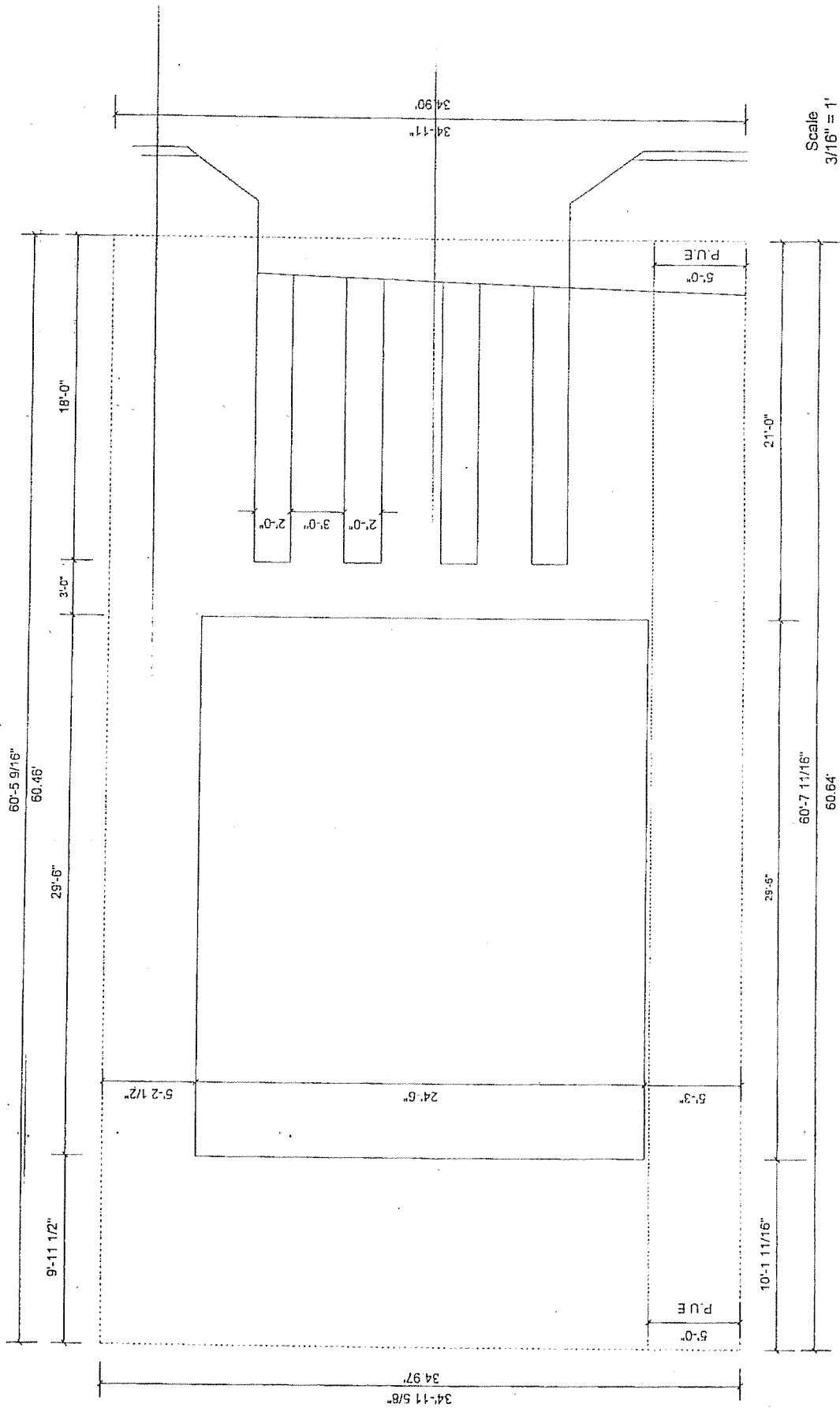
Signed \_\_\_\_\_ Mail Address 6301 Mercedes Bend

City, State & Zip Austin, Texas 78759

Printed Mark Kudela Phone (512) 554-3150 Date 11/3/2010



28  
37





Austin, Texas 78750

13/29

"Working together to keep our neighborhood  
a nice place to come home to."

November 3, 2015

City of Austin  
Board of Adjustment

RE: C15-2015-0102- 1403 W. 45th St.

Members of the Board:

The Rosedale NA steering committee discussed this case with affected neighbors at our meeting on 10/26/2015. We voted to remain neutral and defer to your judgment on the requested variances, with a request that you consider the concerns of the adjacent neighbors in your deliberations. In discussions with Mr. Cancialosi, we have his word that the applicant will agree to a condition limiting the FAR on the property to a .4 FAR, similar to all lots in Rosedale. Please note that this condition is not included in the wording of the posted variance request. We would oppose any variance that does not have that condition included.

Thank you for time and attention,

Chris Allen  
Co-chair, Rosedale NA zoning committee

**Heldenfels, Leane**

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L3  
30

**From:** Jessica Chapman Otwell [REDACTED]  
**Sent:** Thursday, October 29, 2015 10:41 AM  
**To:** Katie Simon  
**Cc:** Heldenfels, Leane  
**Subject:** Re: C15-2015-0102- 1403 W. 45th St.

I agree with what Katie said. I also noticed some trees on this property edge and would add concern at prospect of them being removed since they provide precious shade on that walkway along 45th street. I am also worried about safety and access for not only pedestrians but tenants and traffic along 45th. It short this is a very tight space on a busy street to add 2 additional parking spaces.

Thanks,

Jessica Otwell

On Thu, Oct 29, 2015 at 10:24 AM, [REDACTED] wrote:

I am contacting you regarding the variance request above. I am a neighbor to this property and very concerned. There is no sidewalk on the south side of 45th St. We walk past this piece of property frequently to access the businesses near 45th and Burnet. If a home is built on this incredibly tiny piece of land, I worry that access will be limited posing a serious safety concern for me and my children as we walk along 45th. Please take this into consideration as you consider their variance request.

Katie Simon  
4413 Rosedale Ave

--  
Jessica Otwell, **IDSA**  
Product Design | Photography  
4415 Rosedale Ave.  
Austin, Texas 78756  
c. (678) 469-8693

**Heldenfels, Leane**

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**From:** C L Evans <[REDACTED]>  
**Sent:** Tuesday, July 07, 2015 3:49 PM  
**To:** Heldenfels, Leane  
**Subject:** Re: Question on Rezoning Variance Request - Case C15-2015-0102 - 1403 W. 45th St.

13  
31

Thanks Leane. I think the variance requester should have to agree to a re-zoning requirement in order to have their variance request approved.

I do not see that there is space for a single family residence in the small space to the west of the commercial/auto repair address. There is another residence on the corner of 45th and Rosedale. It is a residential multi dwelling lot with a small house facing 45th at and very close to the lot line with the 1403 45st address being considered for variance.

I may not be able to attend the scheduled hearing due to another commitment but I would appreciate it if you would add my questions and concerns to the proceedings.

My address is 4403 Rosedale (just for the record)

Thanks !

CL Evans  
Sent from my iPhone

On Jul 7, 2015, at 2:09 PM, Heldenfels, Leane <[Leane.Heldenfels@austintexas.gov](mailto:Leane.Heldenfels@austintexas.gov)> wrote:

Hi Mr. Evans – the current zoning is CS – Commercial Services, and the neighboring property use is commercial/auto repair.

The lot requesting the variance is a small lot to the west of the auto repair lot.

The zoning would not change with this variance request, that would be required under a separate re-zoning action in order to accommodate a single family home as planned for the lot.

Perhaps the owner will undertake the rezoning if they are successful in getting these lot design variances.

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Case Number: C15-2015-0102, 1403 W. 45<sup>th</sup> St.

Contact: Leane Heldenfels, 512-974-2202

Public Hearing: Board of Adjustment, July 13th, 2015

DR. TIMOTHY J. WELLIK

Your Name (please print)

☐ I am in favor  
☒ I object

4310 MEDICAL PARKWAY #120 AUSTIN, TX 78756

Your address(es) affected by this application

Timothy J. Wellick, DDS 7/7/15  
Signature Date

Daytime Telephone: 512-451-5183

Comments: THIS PROPERTY IS LOCATED NEAR

A VERY BUSY SIGNAL LIGHT INTERSECTION

I DON'T THINK ADDING A SMALL

LOT NEAR THE 45<sup>th</sup> & BURNET ROAD

INTERSECTION IS A SAFE IDEA!!

I AM NOT IN FAVOR OF REQUESTING

THE SIZE OF THIS LOT TO SQUEEZE

ANOTHER HOME AT THIS LOCATION

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City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

32/13



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Contact: Leane Heldenfels, 512-974-2202

Public Hearing: Board of Adjustment, July 13th, 2015

DR. TIMOTHY J. WELLIK  
Your Name (please print)

☐ I am in favor  
☒ I object

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Timothy J. Wellick, DOS 7/7/15  
Signature Date

Daytime Telephone: 512-451-5183

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INTERSECTION IS A SAFE IDEA!!

I AM NOT IN FAVOR OF REDUCING

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Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

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**Contact: Leane Heldenfels, 512-974-2202**

**Public Hearing: Board of Adjustment, July 13th, 2015**

*CHRISTOPHER E. BURTON*

Your Name (please print)

*4417 ROSEDALE AVENUE*

Your address(es) affected by this application

*[Signature]* *7-4-15*

Signature

Date

Daytime Telephone: *512-586-4904*

Comments: *I HAVE CONCERNS ABOUT SAFETY,*

*SECURITY AND PRIVACY AS WELL*

*AS INCREASED TRAFFIC AND*

*PARKING ON ROSEDALE AVE FROM*

*CUSTOMERS AND EMPLOYEES OF THE*

*DEVELOPER'S BUSINESS OPERATING*

*ON BURNET ROAD. THE PLOT OF LAND IS*

*NOT LARGE ENOUGH TO BE DEVELOPED.*

*THERE IS NO HARMFUL ~~TO~~ <sup>TO</sup> THIS DEVELOPMENT WILL DEGRADE ROSEDALE.*

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Leane Heldenfels

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*33*  
*34*

