

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet
D-3**

DATE: Monday January 11, 2021

CASE NUMBER: C15-2020-0083

☐ - ☐ Brooke Bailey OUT
☐ Y ☐ Jessica Cohen
☐ Y ☐ Ada Corral
☐ Y ☐ Melissa Hawthorne
☐ - ☐ VACANT
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel
☐ Y ☐ Darryl Pruett
☐ - ☐ Veronica Rivera OUT
☐ Y ☐ Yasmine Smith
☐ Y ☐ Michael Von Ohlen
☐ Y ☐ Kelly Blume (Alternate)
☐ - ☐ Vacant (Alternate)
☐ - ☐ Donny Hamilton (Alternate) NOT AVAIL

APPLICANT: Daniel Salazar

OWNER: Enez Salinas

ADDRESS: 2810 GONZALES ST

VARIANCE REQUESTED: The applicant is requesting variance(s) from the Land Development Code, Section 25-2-774 (Two-Family Residential Use) (C) (2) (a) for a Two-Family Residential use location at least 10 feet to the rear or side of the principal structure (required) to 5 feet (requested) in order to erect a Secondary Dwelling Unit in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

Note: Per LDC the second Dwelling Unit must be contained in a structure other than the principal structure and must be located at least 10 feet to the rear or side of the principal structure


BOARD'S DECISION: BOA MEETING JAN 11, 2021 **Board Member Jessica Cohen motions to postpone to February 8, 2021 due to technical difficulties, Board member Michael Von Ohlen seconds on a 9-0 vote; POSTPONED TO February 8, 2021 DUE TO TECHNICAL DIFFICULTIES.**

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:



Elaine Ramirez
Executive Liaison

Diana Ramirez for

Don Leighton-Burwell
Chairman

Members of the Board of Adjustment

I would like to take this opportunity to speak on behalf of Daniel Salazar. I hope this can shed some light on why this variance is being sought.

For those of you that are unfamiliar with the building inspection process I would like to briefly explain the layout inspection. The layout inspection is the initial inspection for most projects and is when we verify site conditions are consistent with the approved plans. This is by far one of the most important inspections we do, and in this case if it had been done correctly, we would not be having this conversation.

When Mr Salazar was starting his project the building inspections division was in the middle of department wide re-organization, dealing with declining response times and an alarming number of backlogged inspections. We were eventually allocated seven new positions at the beginning of fiscal year to deal with the backlog. This coupled with the departure of three veteran inspectors left us with the arduous task of not only filling ten vacancies but also training them with our remaining staff while simultaneously catching up with a seemingly insurmountable inspection backlog.

The approval of the layout inspection for 2810 Gonzales was a byproduct of this tumultuous time. Under normal circumstances this oversight would have been identified and correcting it would have been as simple as moving some forms. This oversight has led us to re-evaluate the way we do conduct our inspections as well as who conducts those inspections. Mr. Salazar trusted the City of Austin to make sure his project was done correctly and due to some very unfortunate circumstances we failed to meet those expectations.

Sincerely,

Kelly Stilwell

Acting Chief Building Inspector, Division Manager

T.S.B.P.E License No. 2461

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2021-0083

BOA DATE: January 11th, 2021

ADDRESS: 2810 Gonzales St

COUNCIL DISTRICT: 3

OWNER: Enez Salinas

AGENT: Daniel Salazar

ZONING: SF-3-NP (Govalle NP)

LEGAL DESCRIPTION: LOT 3 BLK 1 *LESS SW TRI OLT 26-27 DIV A CHERNOSKY NO 11

VARIANCE REQUEST: Two-Family Residential use location at least 10 feet to the rear or side of the principal structure to 5 feet

SUMMARY: erect 2 story secondary dwelling unit

ISSUES: no alley and setback requirements

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	P-NP	Public
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	CS-V-NP	General Commercial Services-Vertical Mixed Uses

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
 Austin Lost and Found Pets
 Austin Neighborhoods Council
 Bike Austin
 Del Valle Community Coalition
 East Austin Conservancy
 El Concilio Mexican-American Neighborhoods
 Friends of Austin Neighborhoods
 Govalle Neighborhood Association
 Govalle/Johnston Terrace Neighborhood Plan Contact Team
 Guadalupe Neighborhood Development Corporation
 Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 Neighbors United for Progress
 Parque Zaragosa Neighborhood Association
 Preservation Austin
 SELTexas
 Sierra Club, Austin Regional Group



January 5, 2021

Daniel Salazar
2810 Gonzales St
Austin TX, 78702

Property Description: LOT 3 BLK 1 *LESS SW TRI OLT 26-27 DIV A CHERNOSKY NO 11

Re: C15-2020-0083

Dear Daniel,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance(s) from the following section of the Land Development Code –

Section 25-2-774 (Two-Family Residential Use); (C) 2 a. The second dwelling unit must be located at least 10 feet to the rear or side of the principal structure; (required); to allow for a second dwelling unit to be five (5) ft. from the principal structure; (requested);

In order to erect a Secondary Dwelling Unit in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan);

Austin Energy does not oppose the above variance request provided any proposed and existing improvements follow Austin Energy's clearance criteria requirements, the National Electric Safety Code and OSHA. Any removal or relocation of existing electric facilities will be at owners /applicants' expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action: <https://austinenergy.com/wcm/connect/8bb4699c-7691-4a74-98e7-56059e9be364/Design+Criteria+Manual+Oct+2015.pdf?MOD=AJPERES>

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

Eben Kellogg, Property Agent

Austin Energy
Public Involvement | Real Estate Services
2500 Montopolis Drive
Austin, TX 78741
(512) 322-6050

G-4/6



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2020-0083
LOCATION: 2810 GONZALES STREET



1" = 175'

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.



Board of Adjustment General/Parking Variance Application

DevelopmentATX.com | Phone: 311 (or 512-974-2000 outside Austin)
For submittal and fee information, see austintexas.gov/digitaldevelopment

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 2810 Gonzales St. Austin, TX 78702

Subdivision Legal Description:

LOT 3 BLK 1 *LESS SW TRI OLT 26-27 DIV A CHERNOSKY NO 11

Lot(s): 3 Block(s): 1

Outlot: _____ Division: _____

Zoning District: _____

I/We Daniel Salazar on behalf of myself/ourselves as

authorized agent for _____ affirm that on

Month November, Day 12, Year 2020, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☒ Other: _____

Type of Structure: New construction of 2-story secondary dwelling unit.

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

I am requesting a variance from the Land Development Code section 25-2-774 Two-Family Residential Use (C) (2) (a) for a SF-3-NP Two-Family location at least 10ft. (required) to rear of principal structure to 5ft (requested).

Section 2: Variance Findings

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 supporting documents.

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.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because: the setback requirements do not allow reasonable utilization of this lot and many of the other homes in the area have similar accessory structures that were built before the code went into effect.

Hardship

a) The hardship for which the variance is requested is unique to the property in that: All of the other commercial blocks on the south side of Cesar Chavez have an alley on the back side that would soften the compatibility standard. This block does not. This lot also has a 35" DBH tree on the property which all limit the development footprint. It is an over-mature, over-extended tree with a spread about as wide as it is tall. The height is about 35-40' tall.

b) The hardship is not general to the area in which the property is located because: All other blocks on the south side of East Cesar Chavez have an alley. In addition the tree is located in the middle of the property.

Area Character

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:

Due to the age of the neighborhood there are numerous other lots on this block that have similarly configured accessory structures that are “existing non complying” so this accessory structure will not affect the character of the neighborhood. In addition the zoning district (Govalle Neighborhood Plan) only regulates property use and this variance would not impair those regulations.

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably 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:

Section 3: Applicant Certificate

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

Applicant Signature:  Date: 11/12/2020

Applicant Name (typed or printed): Daniel Salazar

Applicant Mailing Address: 2810 Gonzales St

City: Austin State: TX Zip: 78702

Phone (will be public information): 512-619-8154

Email (optional – will be public information): 

Section 4: Owner Certificate

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

Owner Signature:  Date: 11/12/2020

Owner Name (typed or printed): Enez Salinas

Owner Mailing Address: 2810 Gonzales St.

City: Austin State: TX Zip: 78702

Phone (will be public information): 512-619-8154

Email (optional – will be public information): 

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

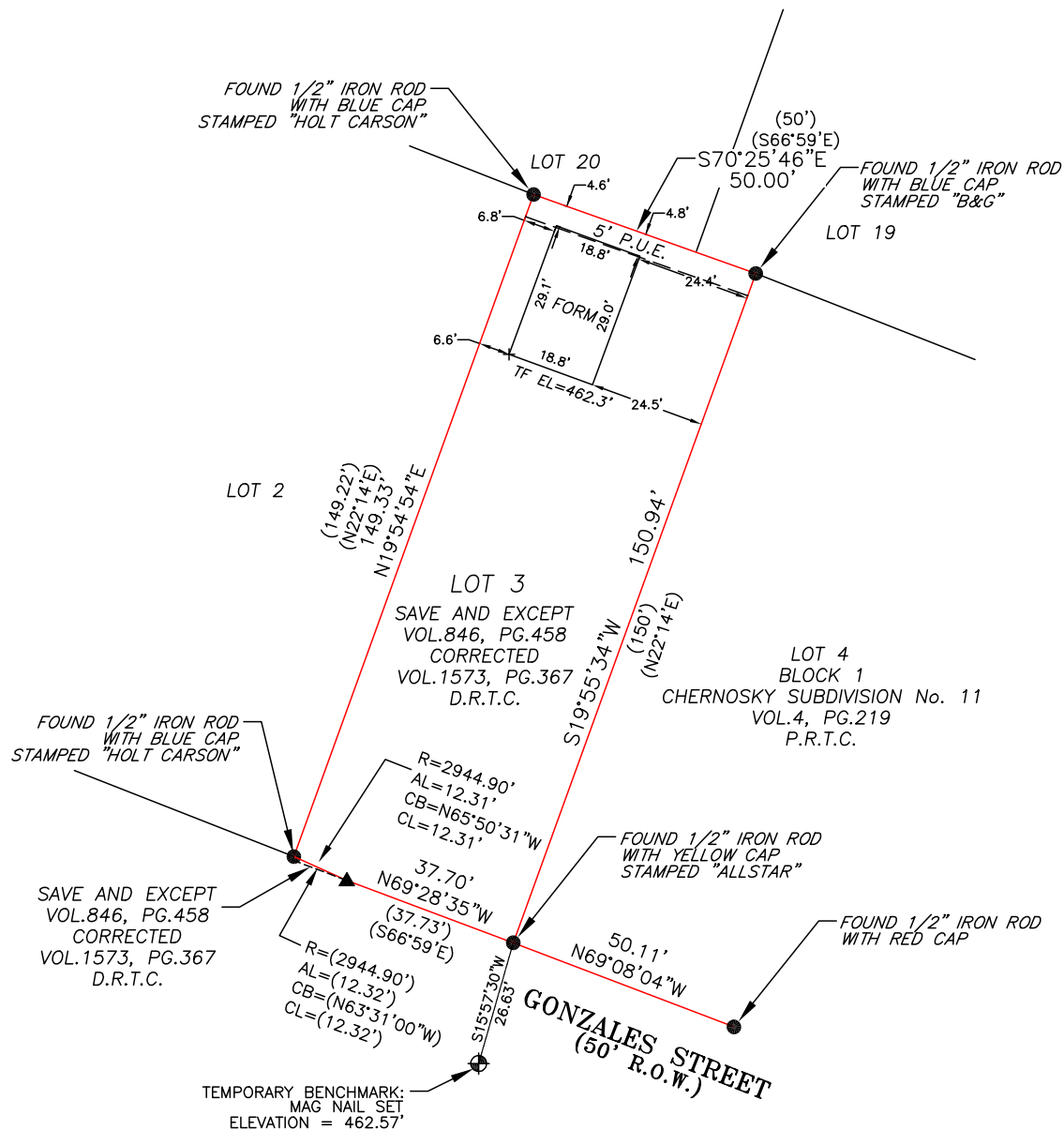
Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

NOTES:

- 1) This property is subject to any and all recorded and unrecorded easements. Surveyor has made no investigation for easements of record, encumbrances, restrictive covenants or ownership title evidence.
- 2) This survey only shows above ground improvements.
- 3) Any FEMA flood zone data shown is for informational purposes only. Data was obtained at: www.fema.gov
- 4) Subject to all applicable city of Austin development codes and zoning ordinances.
- 5) Due to differing building practices, building dimensions are approximate.

LEGEND

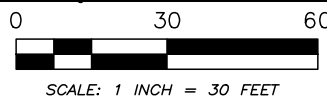
- () RECORD INFORMATION
- +TF EL TOP OF FORM ELEVATION
- R.O.W. RIGHT OF WAY
- D.R.T.C. DEED RECORDS TRAVIS COUNTY
- P.R.T.C. PLAT RECORDS TRAVIS COUNTY
- VOL./PG. VOLUME & PAGE
- P.U.E. PUBLIC UTILITY EASEMENT
- PROPERTY LINE
- ⊕ 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- ▲ TEMPORARY BENCH MARK
- ▲ CALCULATED POINT



FORM SURVEY

PAGE 1 OF 1

DESCRIPTION: REMAINDER OF LOT 3, BLOCK 1, CHERNOSKY SUBDIVISION No. 11, VOLUME 4, PAGE 219, PLAT RECORDS, TRAVIS COUNTY, TEXAS.		SURVEYED FOR: Daniel Salazar SITE ADDRESS: 2810 Gonzales St., Austin, TX	
I certify that this survey has been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Texas to the best of my knowledge and belief.		FLOOD INFORMATION: Per www.fema.gov , this property appears to be located in Zone X ₁ (area of minimal flood hazard). This property was found in map number 48453C0465J, dated 01/06/2016.	
Derek Kinsaul, R.P.L.S. No 6356 April 12, 2019		Bearings based on State Plane Coordinate System, Texas Central Zone, Nad 1983. All distances in US Survey Feet and displayed as GRID. Elevation data (if present) based on NAVD 88, Geoid 12b.	
SURVEYWORKSAUSTIN.COM INFO@SURVEYWORKSAUSTIN.COM FIRM #10194157 (512) 599-8067 1207 UPLAND DRIVE AUSTIN, TX 78741		PROJECT: 19-0099 SURVEYOR: D. KINSAUL DRAWN BY: E. OLDEN FIELDBOOK: see file	



6608 Northeast Dr.
Austin, TX. 78723
12/07/2020

Board of Adjustment
Development Services Department
One Texas Center
505 Barton Springs Road
Austin, Texas 78704

To Whom It May Concern;

My name is Miles J. Lefler. I am a Certified Arborist (TX-3423A), TRAQ, ISA.

On the above date I made an onsite visit to the home of Daniel Salazar at: 2810 Gonzales St., 78702.

Mr. Salazar told me that he needed me to view a large Pecan Tree in his yard, and wanted to get my impressions of this tree in relation to a new house he had built behind it. Specifically, he was very worried that this tree might fail at any time, and that being the case, he located the new house he had built, a year ago, as far from this tree as possible.

I viewed the tree and took measurements of the same. This Pecan Tree is, approximately, 35" DBH. It is an over-mature, over-extended tree with a spread about as wide as it is tall. The height is about 35'- 40' tall.

This tree is seen to have stubs present that indicate that, in the past, it has dropped some fairly large leaders from its canopy. In fact, there is a hanger of approximate length 10', that is now hanging almost directly over Mr. Salazar's house. Other larger leaders are extended over his house at an almost vertical orientation. Mr. Salazar showed me a damaged area of his storage shed roof where the tree had dropped another leader.

Mr. Salazar told me that he wanted to move his family into the new house, in back, because he feared for their safety, under the subject tree. I share his concerns. I feel that this tree could have its major leaders fail at any time.


Mr. Salazar felt that the farther from the tree he sited his new house, the better for the safety of his family. I agree with him.

The variance he is applying for pertains to his siting his new house far from the subject tree, but about 5' too close to his back property line. Even so, he has left an amount of space between his back fence line and the new house, such space being about five feet.

I feel that he did the prudent thing by moving his new house as far from the subject tree as possible, and I hope the BOA can grant him the variance he seeks, for the sake of his completing his new house and for the safety of his family.

If I may be of further service, please feel free to contact me, as below.

Miles J. Lefler
CA, TRAQ, ISA


Call or Text: 512-784-5333

G-4/13





G-4/15



G-4/16



G-4/17



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.austintexas.gov/devservices.

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. All comments received will become part of the public record of this case.

Case Number: C15-2020-0083

Contact: Elaine Ramirez; elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment; January 11th, 2021

Jonathan Rocha

Your Name (please print)

☐ I am in favor
☒ I object

2912 Garwood

Your address(es) affected by this application

J Rocha

Signature

12-28-2020

Date

Daytime Telephone: 512-657-6801

Comments: I think this should be a
fire code issue and should not
be allowed.

Everyone else has to follow 10' Rule
there should not be exceptions

If you use this form to comment, it must currently be returned via e-mail (as we do not have access to our mail due to social distancing):

Elaine Ramirez

Scan & Email to: elaine.ramirez@austintexas.gov