

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
G-3

DATE: Monday June 13, 2022

CASE NUMBER: C15-2022-0043

☐ Y ☐ Thomas Ates
☐ Y ☐ Brooke Bailey
☐ Y ☐ Jessica Cohen
☐ - ☐ Melissa Hawthorne OUT
☐ Y ☐ Barbara McArthur
☐ Y ☐ Darryl Pruett
☐ Y ☐ Agustina Rodriguez
☐ Y ☐ Richard Smith
☐ Y ☐ Michael Von Ohlen
☐ Y ☐ Nicholl Wade
☐ Y ☐ Kelly Blume (Alternate)
☐ Y ☐ Carrie Waller (Alternate)
☐ ☐ Marcel Gutierrez-Garza (Alternate)

APPLICANT: Lisa Gray

OWNER: Red Door LLC

ADDRESS: 509 E 38TH ST

VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 9 feet (requested) in order to maintain an existing Single-Family residence in a “SF-3-CO-NP”, Single-Family-Conditional Overlay-Neighborhood Plan zoning district (Hancock Neighborhood Plan)

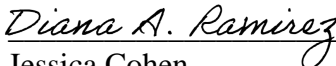
BOARD’S DECISION: BOA MEETING MAY 9, 2022 **POSTPONED TO JUNE 13, 2022 BY STAFF (AE DENIAL) AND THE NEIGHBORS ALSO REQUESTED A POSTPONEMENT UNTIL THEY SPEAK WITH THE APPLICANT;** June 13, 2022 The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postponed to July 11, 2022; Board member Brooke Bailey seconds on an 11-0, vote; **POSTPONED TO JULY 11, 2022.**

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

 for
Jessica Cohen
Madam Chair

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
F-3

DATE: Monday May 09, 2022

CASE NUMBER: C15-2022-0043

____ Thomas Ates
 ____ Brooke Bailey
 ____ Jessica Cohen
 ____ Melissa Hawthorne
 ____ Barbara McArthur
 ____ Rahm McDaniel
 ____ Darryl Pruett
 ____ Agustina Rodriguez
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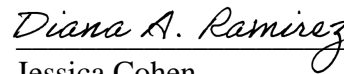
BOARD’S DECISION: BOA MEETING MAY 9, 2022 POSTPONED TO JUNE 13, 2022 BY STAFF (AE DENIAL) AND THE NEIGHBORS ALSO REQUESTED A POSTPONEMENT UNTIL THEY SPEAK WITH THE APPLICANT

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:


Elaine Ramirez
Executive Liaison

 for
Jessica Cohen
Madam Chair



May 11, 2022

Lisa Gray
3530 Bee Caves Rd #218
Austin TX, 78746

Property Description: 100X140FT BLK 3 OLT 7-8 DIVISION C

Re: C15-2022-0043

Dear Lisa,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance from LDC 25-2-492 at 509 E 38th Street.

Austin Energy does not oppose the request, provided that any proposed or existing improvements follow Austin Energy's Clearance & Safety Criteria, the National Electric Safety Code, and OSHA requirements. Any removal or relocation of existing facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE

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

Cody Shook, Planner II

Austin Energy
Public Involvement | Real Estate Services
2500 Montopolis Drive
Austin, TX 78741
(512) 322-6881

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2022-0043

BOA DATE: May 9th, 2022

ADDRESS: 509 E 38th St

COUNCIL DISTRICT: 9

OWNER: Red Door LLC, Lisa Gray

AGENT: N/A

ZONING: SF-3-CO-NP (Hancock NP)

LEGAL DESCRIPTION: 100X140FT BLK 3 OLT 7-8 DIVISION C

VARIANCE REQUEST: decrease the minimum rear yard setback from 10 feet to 9 feet

SUMMARY: maintain an existing Single-Family Residence

ISSUES: structure(s) is an existing non-complying structure

	ZONING	LAND USES
<i>Site</i>	SF-3-CO-NP	Single-Family
<i>North</i>	SF-3-CO-NP	Single-Family
<i>South</i>	SF-3-CO-NP	Single-Family
<i>East</i>	SF-3-CO-NP	Single-Family
<i>West</i>	SF-3-CO-NP	Single-Family

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

CANPAC

Central Austin Community Development Corporation

Friends of Austin Neighbors

Hancock Neighborhood Assn.

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

Preservation Austin

SELTexas

Sierra Club, Austin Regional Group



May 5, 2022

Lisa Gray
3530 Bee Caves Rd
Austin TX, 78746

Property Description: 100X140FT BLK 3 OLT 7-8 DIVISION C

Re: C15-2022-0043

Dear Lisa,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance from LDC 25-2-492 at 508 E 38th Street.

Austin Energy cannot release the rear yard setback at this time due to our existing facilities along the rear of this site. Any permanent structure on this lot is required to meet 10' clearance from the outside conductor of the overhead electric distribution line along the rear lot line. To approve this variance request, AE will need proof (site plan or survey showing distances, etc.) that this clearance will be met. Also, any proposed or existing improvements must follow Austin Energy's Clearance & Safety Criteria, the National Electric Safety Code, and OSHA requirements. Any removal or relocation of existing facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE

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

Cody Shook, Planner II

Austin Energy
Public Involvement | Real Estate Services
2500 Montopolis Drive
Austin, TX 78741
cody.shook@austinenergy.com
(512) 322-6881



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2022-0043

LOCATION: 509 E 38TH STREET



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" = 250'



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 # C15-2022-0043 ROW # 12912218 Tax # 0217061206

Section 1: Applicant Statement

Street Address: 509 East 38th Street, Austin, Texas 78705

Subdivision Legal Description:

100X140FT Block 3 OLT 7-8 Division C

Lot(s): _____ Block(s): 3

Outlot: _____ Division: C

Zoning District: SF-3-CO-NP

I/We Lisa Gray on behalf of myself/ourselves as

authorized agent for _____ affirm that on

Month April, Day 6, Year 2022, 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: Residential Single Family

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

Land Development Code section 25-2-492 Site Development Regulations for a Rear
Yard setback of 10-FT (required) to 9-ft (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 lot is 14,027-SF with a 1954 home. We are subdividing the property into two lots. We
would like to preserve the existing home. But as per code, the required lot width will make
the existing home within the new 10-FT rear setback because the back of the home will be
9'-4" from the rear property line. Please see attached Exhibit A. We are requesting a variance
from the 10-FT rear setback to allow for the 8" encroachment. This actually is an
improvement over the 5'-7" encroachment of the garage into the existing rear setback (see
Exhibit B).

Hardship

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

The subdivision for this property uniquely has the the existing home to be within 8" of
compliance; in addition, the surrounding properties have numerous similar encroachments.
We are not asking for extra FAR or impervious cover. The only reason for this variance is to
allow us to keep the existing home that will encroach into the new 10' setback. This will be
less of an encroachment than the existing garage is at now, which is encroaching 5'-7" into the
10-FT rear setback.

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

Several of the properties in the area are less than 10-FT from the rear lot line. See Exhibit C.
In fact, our lot itself is not complying with the rear setback in its original configuration with
the detached garage at 4.4' per survey (4'-5") from the rear lot line. See Exhibit B.

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:

Several of the properties within blocks is not complying with their rear setback. See Exhibit C.

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: 4/7/2022

Applicant Name (typed or printed): Lisa Gray

Applicant Mailing Address: 3530 Bee Caves Road #218

City: Austin State: TX Zip: 78746

Phone (will be public information): 512-767-5710

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: 4/7/2022

Owner Name (typed or printed): Red Door LLC, Lisa Gray

Owner Mailing Address: 3530 Bee Caves Road #218

City: Austin State: TX Zip: 78746

Phone (will be public information): 512-767-5710

Email (optional – will be public information): 

Section 5: Agent Information

Agent Name: Lisa Gray

Agent Mailing Address: 3530 Bee Caves Road #218

City: Austin State: TX Zip: 78746

Phone (will be public information): 512-767-5710

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).

Exhibit A - 509 E 38th Rear Set back Encroachment

Shaded area is the proposed re-subdivided Lot 1:



Below is the zoomed-in location of encroaching part of existing home into 10' setback, which is 4-8" of encroachment:

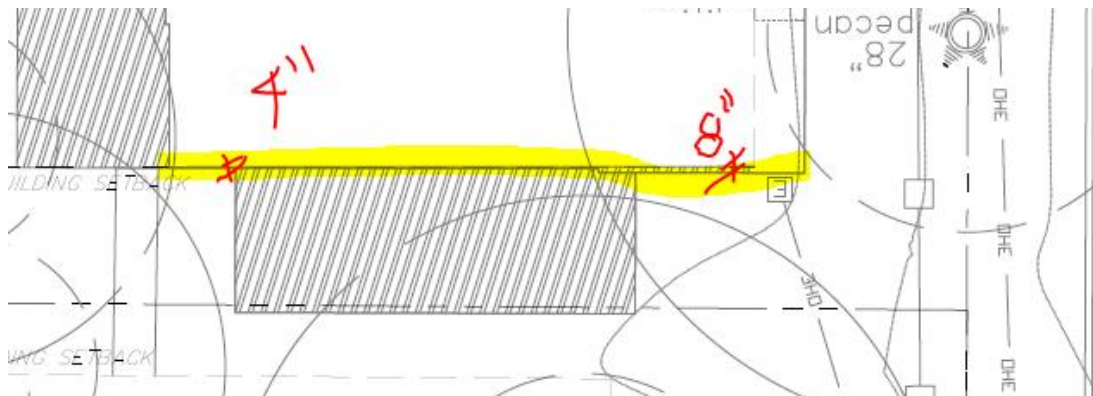
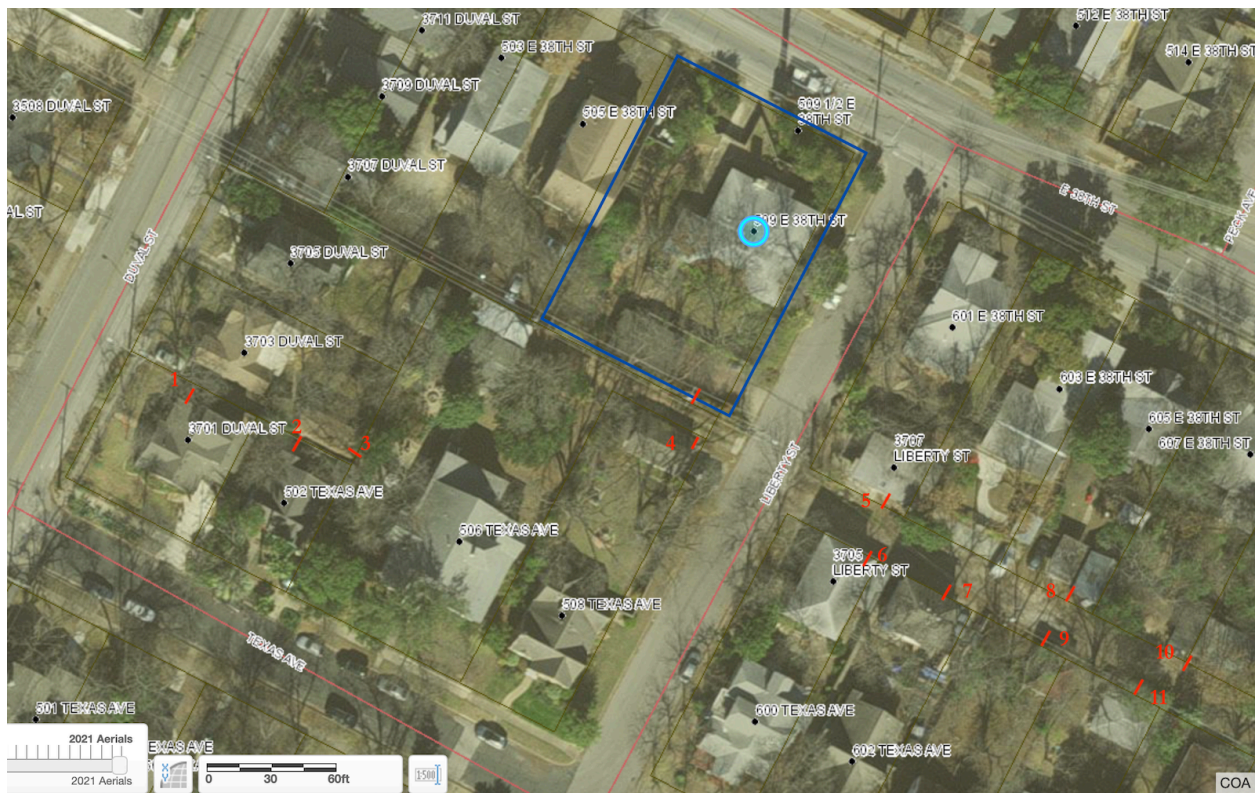


Exhibit C - Neighboring Setback Encroachments

Shown below with the red lines are properties with rear setbacks in the area that are less than 10'. Within a couple blocks of the subject property, there at least 10 properties that encroach into the 10-FT rear setback:

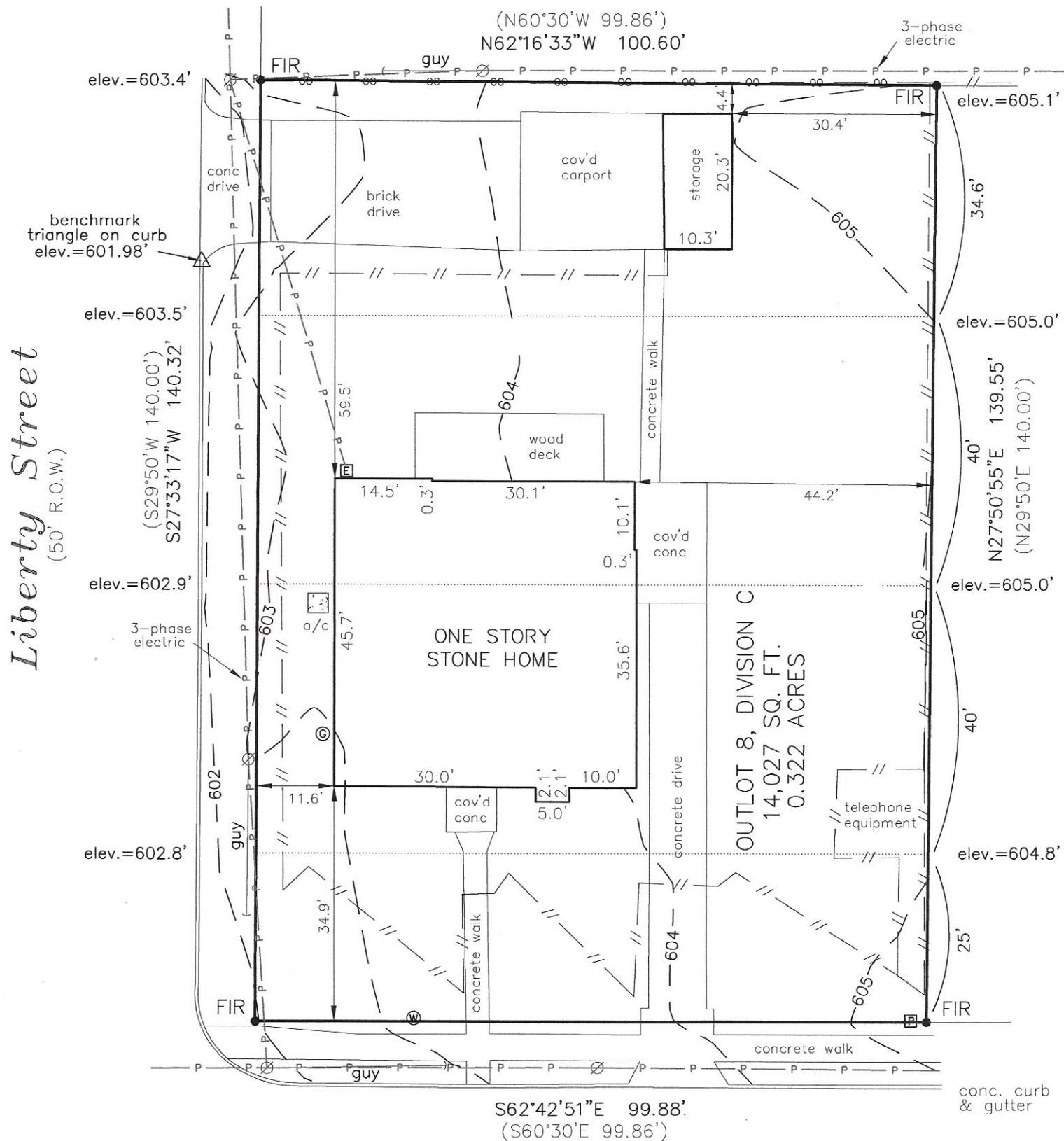


COMMERCIAL ENGINEERING, PLLC
SURVEY PLAT

LEGAL DESCRIPTION:

LEGAL DESCRIPTION:
0.322 ACRES OF LAND, MORE OR LESS, OUT OF OUTLOT 8, DIVISION C, OF THE CITY OF AUSTIN, IN TRAVIS COUNTY, TEXAS, AND BEING THE SAME PROPERTY DESCRIBED BY METES AND BOUNDS IN A SPECIAL WARRANTY DEED RECORDED IN VOLUME 11245, PAGE 1321 OF THE REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS.

DIETZ STEVEN J & ALLISON R GREGORY
0.3665 ACRES, DOC. #2008144472 O.P.R.T.C.TX.



MONDOLFI PAUL & ANABEL TORRES
DOC. #2020124359 O.P.R.T.C.TX.

#509 East 38th Street
(50' R.O.W.)

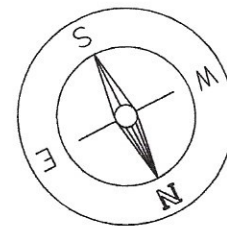
ADDRESS:
509 EAST 38TH STREET
AUSTIN, TEXAS

NOTE:
THIS SURVEY WAS PERFORMED
WITHOUT THE BENEFIT OF A
TITLE COMMITMENT AND OTHER
RIGHTS AND RESTRICTIONS MAY
APPLY.

LEGEND

<u>IMPERVIOUS COVER</u>		
HOUSE	2,058	SQ FT
CARPORT & STORAGE	645	SQ FT
WOOD DECK @50%	142	SQ FT
CONCRETE FLATWORK	1,017	SQ FT
BRICK DRIVE	700	SQ FT
<u>TOTAL IMPERVIOUS</u>		
LOT AREA	14,027	SQ FT
IMPERVIOUS COVER %	32.5	%

1/2" FOUND IRON ROD	FIR●
RECORD INFORMATION	()
WOOD FENCE	— // —
CHAINLINK FENCE	— oo —
UTILITY POLE	∅
UTILITY/POWER LINE	— P —
WATER METER	Ⓢ
ELECTRIC METER	ⓔ
GUY WIRE	→ guy
GAS METER	ⓖ
ELECTRIC POWER BOX	ⓔ

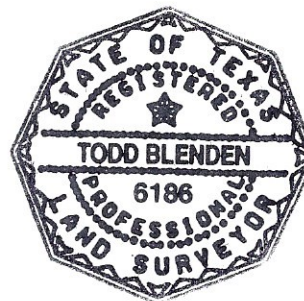


0' 10' 20'

GRAPHIC SCALE

1" = 20'

BEARING BASIS:
TEXAS COORDINATE SYSTEM
CENTRAL ZONE (4203), NAD83
U.S. SURVEY FEET (GRID)
ELEVATIONS ARE BASED ON
THE N.A.V.D. 88, GEOID 12B.



1000

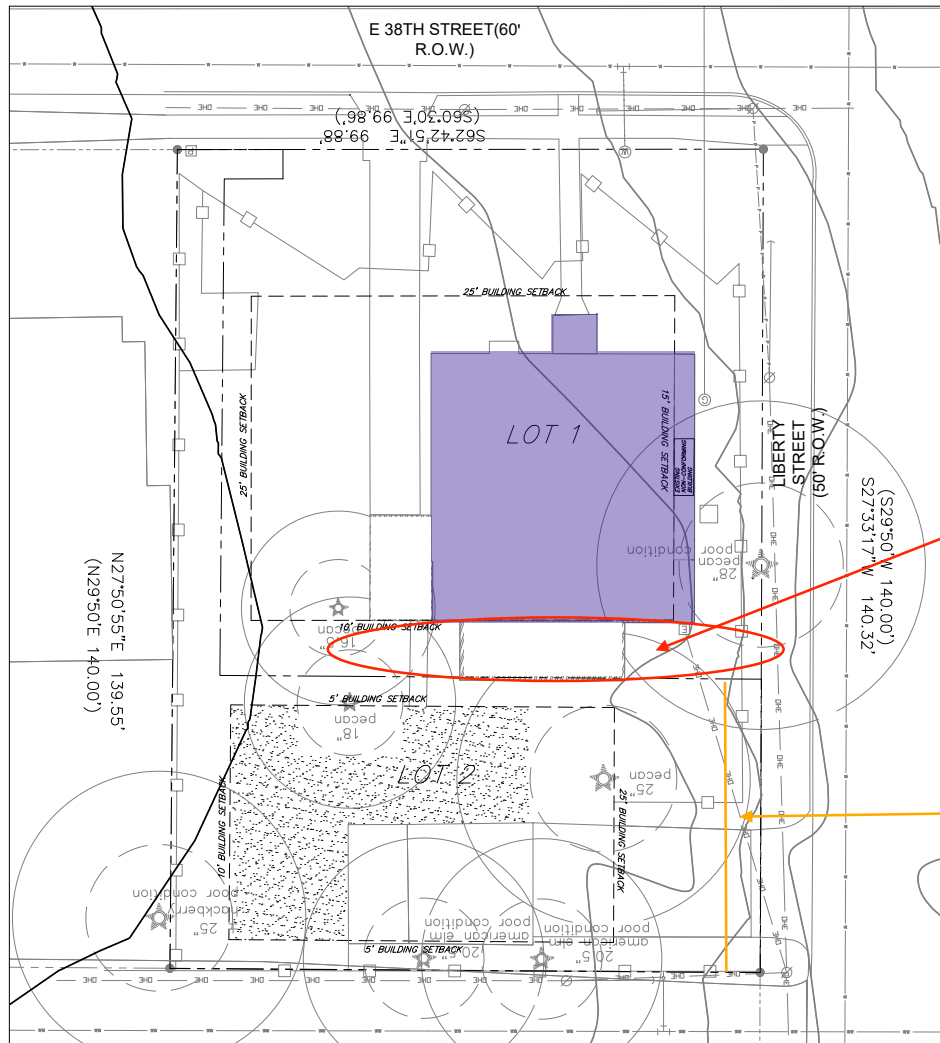
Todd Blenden, R.P.L.S. 6186
Commercial Engineering, PLLC

State of Texas:
County of Travis:
The undersigned does hereby certify that this survey was this day made on the property legally described hereon and is correct, and this survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A & 6 Condition II Survey. I certify that the property shown hereon IS NOT within a special flood hazard area as identified by the Federal Emergency Management Agency, FIRM Flood hazard boundary map revised as per Map Number:48453C0465K Zone:X Dated:1/22/2020. Dated this 13th day of April, 2021.

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www.Commercial-Engineering.com * Austin, Texas * 512-632-7865 * TBPELS#10181400 J2021-1082

509 E 38th St - Subdivision Info



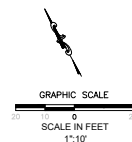
Seeking variance to keep existing 1954 home that would encroach into the 10-FT rear setback required per building code.

For information purposes, this is the 50-FT frontage required for a lot subdivision, which creates the rear lot line for the existing house.

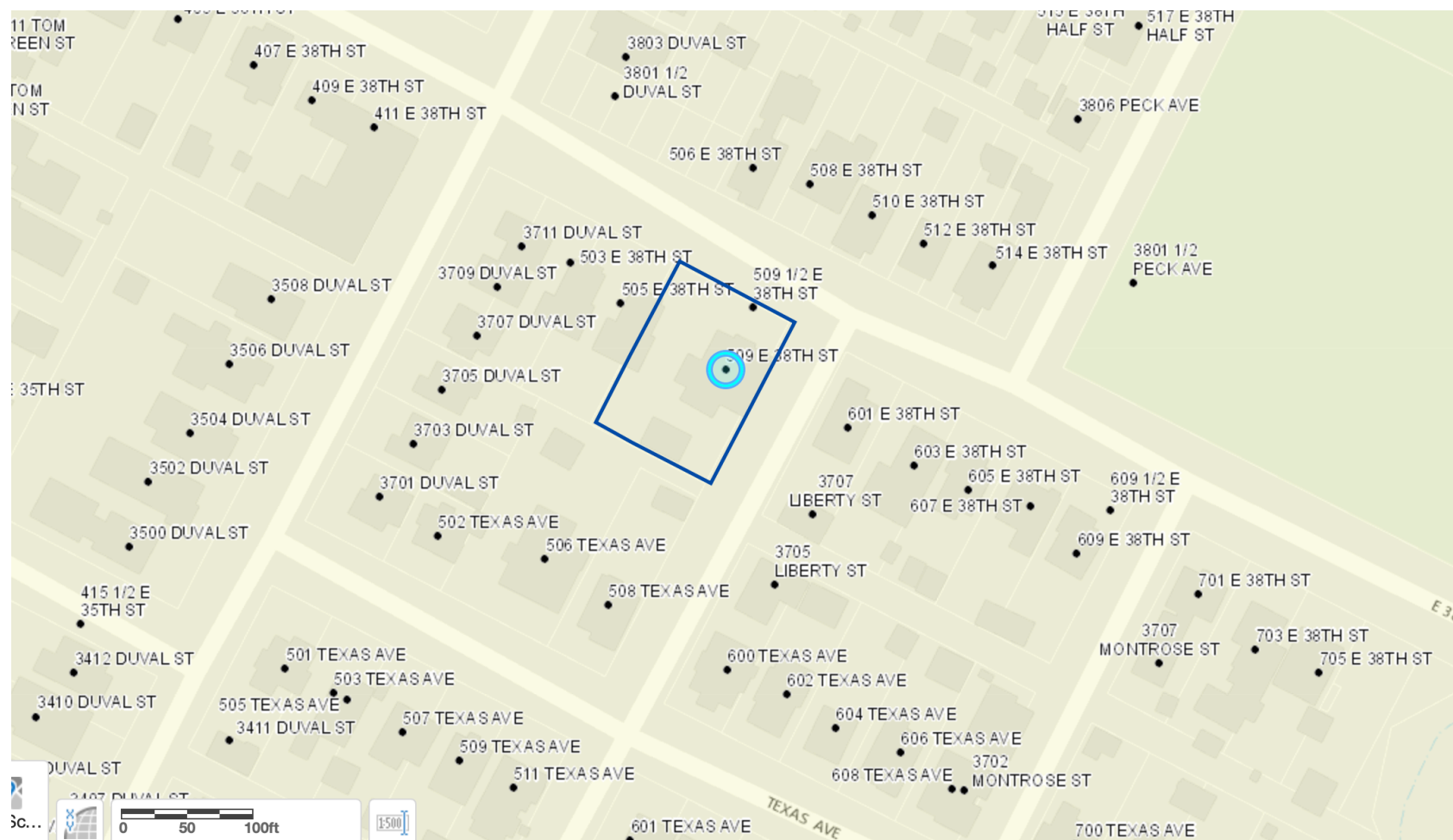
DEMO PLAN

LEGEND

- PROPOSED LOT LINE
- EXISTING CONTOURS
- PROPOSED MINOR CONTOUR
- PROPOSED MAJOR CONTOUR



509 E 38th - Surrounding Properties



From: [REDACTED]
Subject: [REDACTED]
Date: Wednesday, May 04, 2022 3:12:54 PM

*** External Email - Exercise Caution ***

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to cybersecurity@AustinTexas.gov.

Written comments must be submitted to the contact person listed on the notice before 9 a.m. the day of the public hearing to be added to the Late Back-up and viewed by the Board the night of the meeting. 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: C15-2022-0043

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

Public Hearing: Board of Adjustment; May 9th, 2022

Friends of Hyde Park NA
Your Name (please print)

☒ I am in favor
☐ I object

Your address(es) affected by this application

[Signature]
Signature

5/4/22
Date

Daytime Telephone: _____

Comments: _____

If you will be using this form to comment, please return it via e-mail to:

Elaine Ramirez; 512-974-2202

Scan & Email to: Elaine.Ramirez@austintexas.gov

From: Sista Irie
To: [REDACTED]
Subject: Easement hearing for May 9
Date: Wednesday, May 04, 2022 4:28:33 PM

*** External Email - Exercise Caution ***

Hi Elaine,

I was contacted by a close neighbor regarding a new owner on the block who is requesting an easement change from the City and has a hearing slated for May 9. The owner is Red Door LLC. There are three 'side by side' neighbors who live on this block and have some initial objections. I mistakenly threw out my objection form.

We would like to ask for the hearing to be rescheduled so in order to request a meeting with Red Door LLC and ask for more information regarding the project. It is quite possible the meeting will allow us to stop the objections so it is important to everyone that we speak as a group. One of the neighbors who lives right behind them is reaching out to them later today to set up a time.

Please let me know how to delay the hearing while we speak with the applicants and make sure we are all comfortable with any changes to the current City guidelines.

Thank you,

Beverly Shaw
512.619.1239

Beverly "Sista Irie" Shaw
Media Professional, Photojournalist, Radio Broadcaster
Community Radio Consultant
Majesty Media, Island Stage Magazine, United Reggae
502 Texas Ave, Austin, Texas 78705
512.619.1239

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to cybersecurity@austintexas.gov.