

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet  
Item-6**

**DATE: Monday August 8, 2022**

**CASE NUMBER: C15-2022-0043**

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

**APPLICANT: Lisa Gray**

**OWNER: Red Door LLC**

**ADDRESS: 509 E 38TH ST**

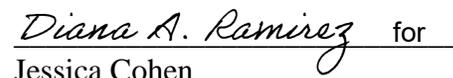
**VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 9 feet (requested) in order to maintain an existing Single-Family 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. JULY 11, 2022 POSTPONED TO AUGUST 8, 2022 BY APPLICANT; Aug 8, 2022 Due to lack of board members applicant requests to postpone, Chair Jessica Cohen motions to postpone to September 12, 2022; Board member Melissa Hawthorne second on 9-0 vote; POSTPONED TO September 12, 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

  
Jessica Cohen  
Madam Chair



**updated Hardship - 8/20/2022**

## 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](http://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

**updated Hardship - 8/20/2022**

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)

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## 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 with a 1954 home. The lot size is large enough to allow a subdivision, but for this site, the placement of the existing 1954 home would be 10 inches into the new required setback. If the home had been built just 10 inches closer to 38th street, this would not be a problem. Preserving the home is important to the area character and desired by the owners. In order to subdivide the lots without a variance, the house would have to be demolished. There is no way to preserve the house without a variance according to our Subdivision Engineer (email attached). And without a variance a demolition is required according to the city (email attached).

Because of the placement of the existing home, it is only possible to have a 9 foot 2 inch rear setback, but a ten foot setback is required by the zoning code. Therefore, we are asking for a variance of only one foot. Without this one-foot variance, the city will require us to do a demolition in order to subdivide. We want to avoid a demolition to subdivide the lot, and instead preserve the existing home that is a part of the area character. Its a cute house that adds to the character of the neighborhood.

### Hardship

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

The property is twice the size of many other lots in the area and has frontage on two streets. The placement of the existing home (built in 1954) is just 10 inches from a placement that would allow reasonable and legal use of the property (subdivision). Without a one foot variance, the subdivision would still be allowed, but the home would have to be demolished. The current home is suitable for habitation and is part of the fabric of the community. Preserving the existing home is strongly desirable to maintain the area's character.

The width of the new lot (Lot 2) created from the subdivision is as small as it can be and still meet city code. Therefore, a new lot cannot be created in a way that avoids this setback issue (unless the house is demolished).

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

This lot is large (about twice the size as most lots) and has frontage on 2 streets - two characteristics many of the area properties do not have. The original placement of the 1954 home is only 8 inches away from a placement that would not require a variance.

**updated Area Character - 8/20/2022**

**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 are not complying with their rear setback (see attached).

Additionally once the property is subdivided it will actually be more similar to the sizes of the surrounding lots in the area (around 7000 sq ft).

**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:

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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:

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

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

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**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: 8/20/2022

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: 8/20/2022

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): [REDACTED] 78701

**Section 5: Agent Information**

Agent Name: Eric Goff

Agent Mailing Address: 600 Congress Ave, Suite 1400

City: Austin State: TX Zip: 78701

Phone (will be public information): 512-632-7013

Email (optional – will be public information): [REDACTED]

**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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Neighboring setback encroachments & lots

Shown below with the 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:



## COA Subdivision Reviewer Email

July 22, 2022 at 2:38 PM

Hi Lisa – You are correct. In order for the existing house to encroach into the 10 ft rear setback, the BOA variance must be processed and approved first BEFORE the subdivision is submitted. OR, you can submit a subdivision application now and the existing house would need to be demolished before the subdivision application is approved.

Regards,  
Jennifer

**Jennifer Bennett, AICP**

*Senior Planner, Land Use Review*

City of Austin Development Services Department

6310 Wilhelmina Delco Dr, Austin, Texas 78752

Office: 512-974-9002

|  
**From:** lisa gray <[REDACTED]>  
**Sent:** Friday, July 22, 2022 10:19 AM  
**To:** Bennett, Jennifer <[REDACTED]>  
**Cc:** DSD Subdivision Review <DSD\_SubdivisionReview@austintexas.gov>; Kimbrough Gray <[REDACTED]>  
**Subject:** 509 E 38th - Subdivision

\*\*\* External Email - Exercise Caution \*\*\*

**Hi Jennifer, We are working on a 2 lot subdivision for the property at 509 E 38th. The proposed new rear lot line will not comply with 10 ft rear setback for existing house (see highlighted area in yellow below). It is 8" into the setback. See graphic below.**

**There was some confusion with the BOA that we had to wait to get the variance after the subdivision is approved. So I want to clarify this for us all.**

**We are seeking a variance with the BOA in order to avoid demolishing the house. Can you verify that the variance needs to be approved or the demolition will need to be happen before the plat is approved? In other words, we cannot get the plat approved first, and then seek the variance.**

Engineer Email

**SERVANT ENGINEERING & CONSULTING, PLLC**  
12000 Manchaca Rd Suite C  
Austin, Texas 78748

**F-16504**  
Tel. 512-368-5251

July 22, 2022,

Board of Adjustment  
Development Services Department  
City of Austin  
6310 Wilhelmina Delco Dr  
Austin, TX 78752

Variance Request – Support Document  
*Liberty and 38*  
509 E 38<sup>th</sup> Street  
Austin, Texas 78705

To whom it may concern,

The owner of the above-mentioned property is seeking to do two single family lot re-subdivision. The existing site is legal by land status. The site consists of 14,000 square feet and it is currently developed with a single family home., However the house is located in such position that once a new lot line is created, it will not comply with the 10 ft rear setback. The house will be within 9.37 ft of the new lot line. The minimum lot width is 50 ft for SF-3 zoning and that is the proposed lot with for new lot facing Liberty Street. The proposes subdivision can not be approved without a variance for the existing house to stay within the 10 ft setback of the new lot line (9.37 ft) or if variance is not granted, the house (or portion of it) will need to be demolished/removed. We need to get this variance approved prior to subdivision approval/submittal as a prerequisite for subdivision plat application. Proposed plat and demolition plan is attached for reference.

Should you have any questions, please contact me at (512) 368-5251 or via email at [mauricio@servanteng.com](mailto:mauricio@servanteng.com).

Sincerely,



Mauricio Quintero-Rangel, P.E.  
cc: file

**Variance Request**  
**509 E 38th St**

**Front porch & chimney of home**



Variance Request  
509 E 38th St

Front and right side of home



Variance Request  
509 E 38th St

Living room



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

**DATE: Monday July 11, 2022**

**CASE NUMBER: C15-2022-0043**

\_\_\_\_ Thomas Ates  
\_\_\_\_ Brooke Bailey  
\_\_\_\_ Jessica Cohen  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Barbara Mearthur  
\_\_\_\_ Ryan Nill  
\_\_\_\_ Darryl Pruett  
\_\_\_\_ Agustina Rodriguez OUT  
\_\_\_\_ Richard Smith OUT  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Nicholl Wade  
\_\_\_\_ Kelly Blume (Alternate) OUT  
\_\_\_\_ 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. JULY 11, 2022 POSTPONED TO AUGUST 8, 2022 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:

Elaine Ramirez  
Elaine Ramirez  
Executive Liaison

Diana A. Ramirez for  
Jessica Cohen  
Madam Chair

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 with a 1954 home. The lot size is large enough to allow a subdivision, but for this site, the placement of the existing 1954 home would be 10 inches into the new required setback. If the home had been built just 10 inches closer to 38th street, this would not be a problem. Preserving the home is important to the area character and desired by the owners. In order to subdivide the lots without a variance, the house would have to be demolished. There is no way to preserve the house without a variance according to our Subdivision Engineer (letter attached). And without a variance a demolition is required according to the city (letter attached)

Because of the placement of the existing home, it is only possible to have a 9 foot 2 inch rear setback, but a ten foot setback is required by the zoning code. Therefore, we are asking for a variance of only one foot. Without this one-foot variance, the city will require us to do a demolition in order to subdivide. We want to avoid a demolition to subdivide the lot, and instead preserve the existing home that is a part of the area character. Its a cute house that adds to the character of the neighborhood.

### Hardship

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The width of the new lot (Lot 2) created from the subdivision is as small as it can be and still meet city code. Therefore, a new lot cannot be created in a way that avoids this setback issue (unless the house is demolished).

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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 in not complying with their rear setback (see exhibit C).

Additionally once the property is subdivided it will actually be more similar to the sizes of the surrounding lots in the area (around 7000 sq ft).

**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:

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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:

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

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

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July 22, 2022 at 2:38 PM

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Regards,  
Jennifer

**Jennifer Bennett, AICP**

*Senior Planner, Land Use Review*

City of Austin Development Services Department

6310 Wilhelmina Delco Dr, Austin, Texas 78752

Office: 512-974-9002

|  
From: [REDACTED]  
Sent: Friday, July 22, 2022 10:19 AM  
To: Bennett, Jennifer <Jennifer.Bennett@austintexas.gov>  
Cc: [REDACTED]  
Subject: 509 E 38th - Subdivision

\*\*\* External Email - Exercise Caution \*\*\*

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July 22, 2022,

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Sincerely,



Mauricio Quintero-Rangel, P.E.  
cc: file

**Variance Request**  
**509 E 38th St**

**Front porch & chimney of home**



Front and right side of home



Variance Request  
509 E 38th St

Living room



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

**DATE: Monday June 13, 2022**

**CASE NUMBER: C15-2022-0043**

Y  Thomas Ates  
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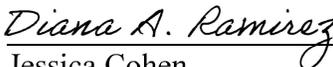
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**FINDING:**

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Elaine Ramirez  
Executive Liaison

 for  
Jessica Cohen  
Madam Chair

**From:** lisa gray  
**To:** [Ramirez, Elaine](#)  
**Cc:** [Ramirez, Diana](#)  
**Subject:** Re: July 11th, 2022 Presentation & Virtual Speaker registration deadline  
**Date:** Wednesday, June 29, 2022 12:56:34 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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\*\*\* External Email - Exercise Caution \*\*\*

Hi! Could we request a postponement? We are working on getting a letter from Preservation Austin and rewording our hardship.

Thanks, Lisa

On Monday, June 27, 2022, 07:16:38 AM CDT, Ramirez, Elaine <elaine.ramirez@austintexas.gov> wrote:

Good morning Applicants on the Mon. July 11<sup>th</sup>, 2022 BOA mtg. Agenda,

**Please read this entire e-mail**



The deadline to submit the Presentation (must be submitted in PDF format or PowerPoint) is **Friday, July 1<sup>st</sup>, before 3p.m.**

**You will need to submit a Presentation each month you go before the Board, even if you have gone the previous month(s)**

**Presentation:** **If** you would like the Board to follow along with you as you are giving your presentation (You will have 5 minutes to hone in on the main aspects of the case as you are presenting the case to the Board), you will need to have your Presentation completed and sent to me in PDF

**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  
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**APPLICANT: Lisa Gray**

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**FINDING:**

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Elaine Ramirez

Elaine Ramirez  
Executive Liaison

Diana A. Ramirez 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 38<sup>th</sup> 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](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 9<sup>th</sup>, 2022**ADDRESS:** 509 E 38<sup>th</sup> 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

	<b>ZONING</b>	<b>LAND USES</b>
<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 38<sup>th</sup> 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](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](mailto:cody.shook@austinenergy.com)  
(512) 322-6881



**NOTIFICATIONS**

CASE#: C15-2022-0043  
LOCATION: 509 E 38TH STREET



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY



1" = 250'

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](http://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 #	<b>C15-2022-0043</b>	ROW #	<b>12912218</b>	Tax #	<b>0217061206</b>
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## 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.

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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 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:

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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:

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

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

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**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): 

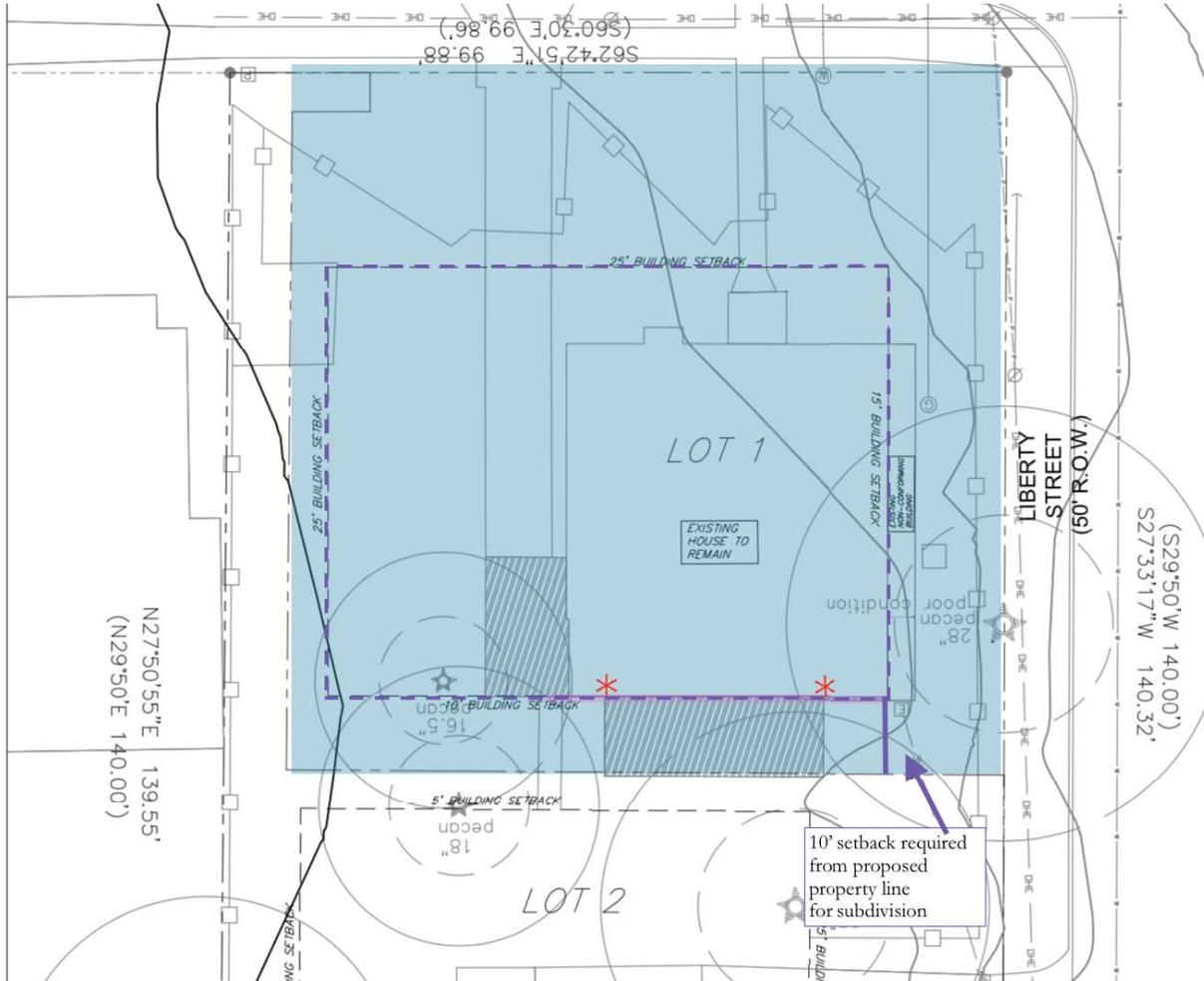
**Section 6: Additional Space (if applicable)**

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).

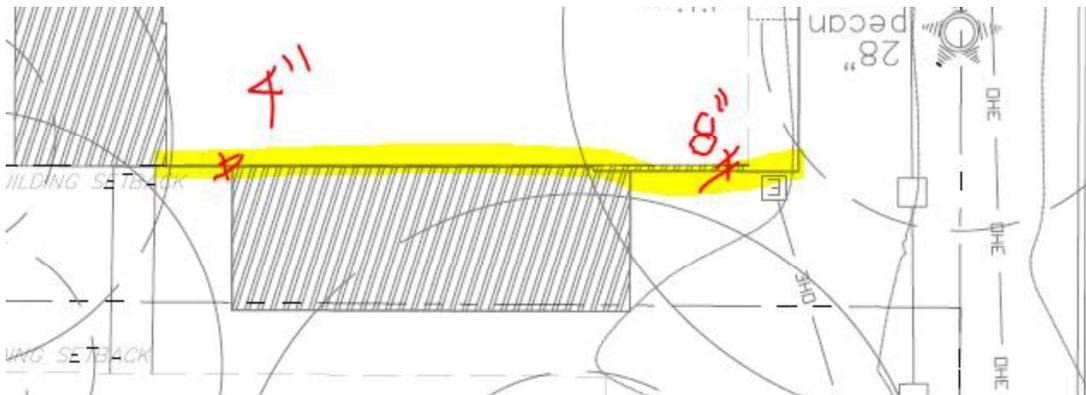
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Exhibit A - 509 E 38th Rear Set back Encroachment

Shaded area is the proposed re-subdivided Lot 1:

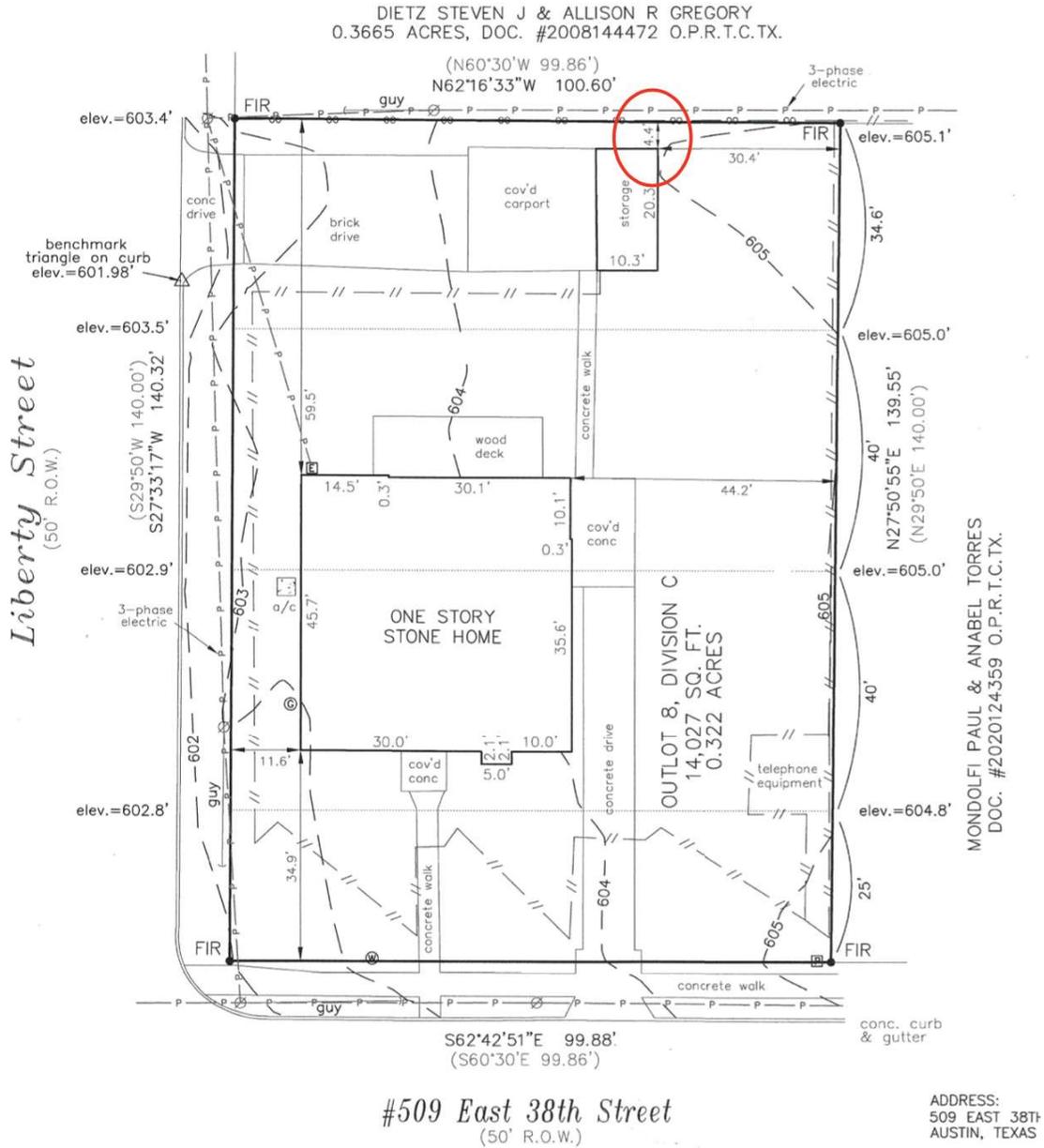


Below is the zoomed-in location of encroaching part of existing home into 10' setback, which is 4-8" of encroachment:



### Exhibit B - Existing Rear Setback Encroachment

Existing rear garage is 4.4' (aka 4'-5") from the rear property line, which is a 5'-7" encroachment into the 10-FT rear setback.



## 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:

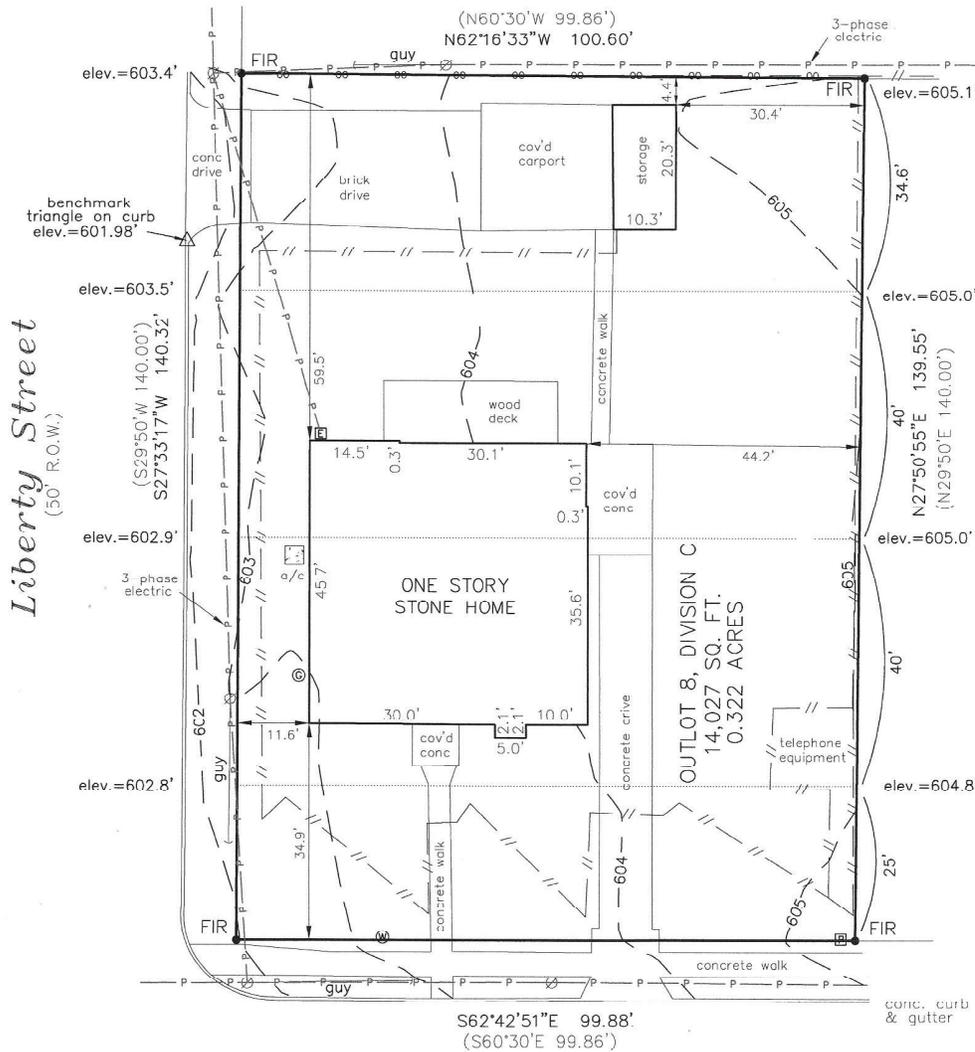


COMMERCIAL ENGINEERING, PLLC  
SURVEY PLAT

ITEM 6/34

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.



Liberty Street  
(50' R.O.W.)  
(S29°50'W 140.00')  
(S27°33'17\"/>

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

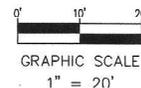
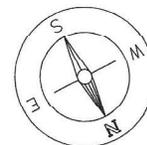
#509 East 38th Street  
(50' R.O.W.)

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.

IMPERVIOUS COVER	
HOUSE	2,058 SQ FT
CARPORYT & STORAGE	645 SQ FT
WOOD DECK @50%	142 SQ FT
CONCRETE FLATWORK	1,017 SQ FT
BRICK DRIVE	700 SQ FT
TOTAL IMPERVIOUS	4,562 SQ FT
LOT AREA	14,027 SQ FT
IMPERVIOUS COVER %	32.5 %

LEGEND	
1/2" FOUND IRON ROD	FIR●
RECORD INFORMATION	( )
WOOD FENCE	— // —
CHAINLINK FENCE	— ∞ —
UTILITY POLE	⊙
UTILITY/POWER LINE	— P —
WATER METER	⊕
ELECTRIC METER	⊖
GUY WIRE	guy
GAS METER	⊕
ELECTRIC POWER BOX	⊖



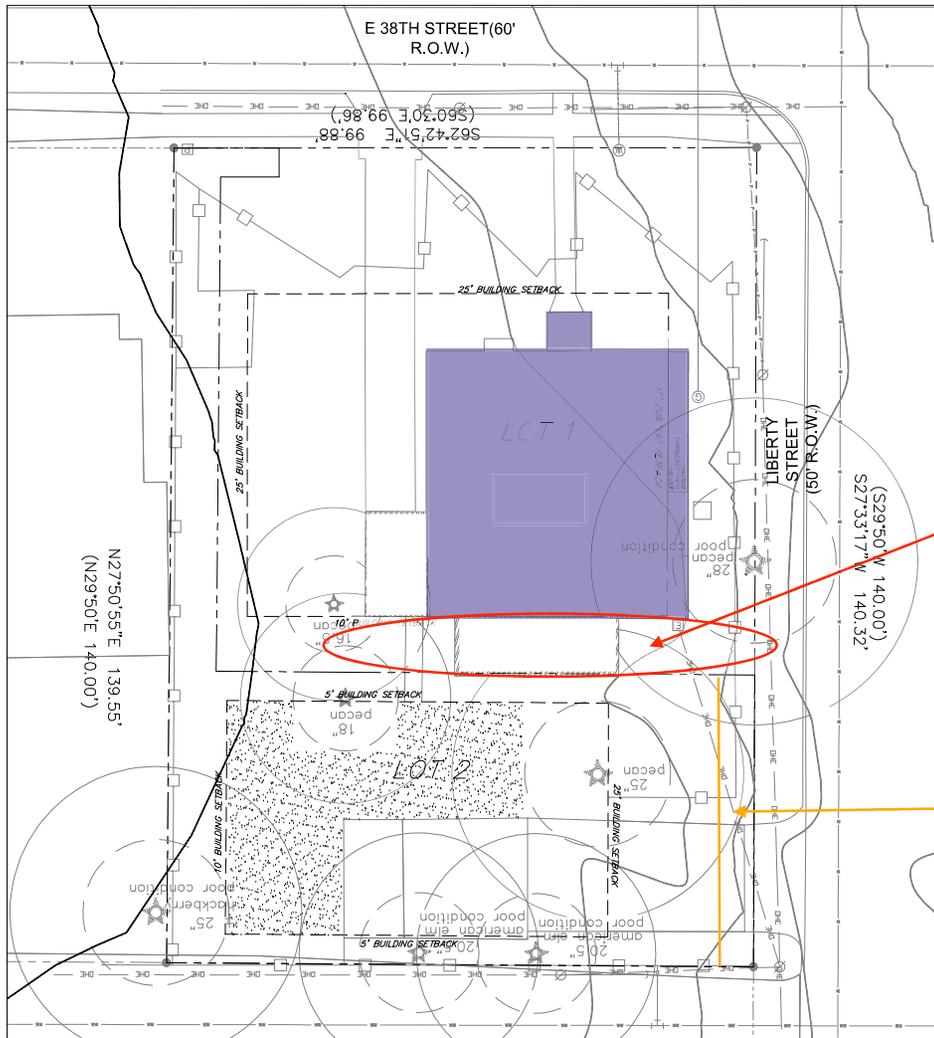
BEARING BASIS:  
TEXAS COORDINATE SYSTEM  
CENTRAL ZONE (4203), NAD83  
U.S. SURVEY FEET (GRID)  
ELEVATIONS ARE BASED ON  
THE N.A.V.D. 88, GEOID 12B.

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, FIRMS Flood hazard boundary map revised as per Map Number:48453C0465K Zone:X Dated:1/22/2020. Dated this 13th day of April, 2021.



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

509 E 38th St - Subdivision Info

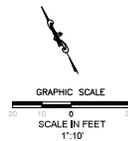


Seeking variance to keep existing 1954 home that would encroach into the 10-FT rear setback required per building code.

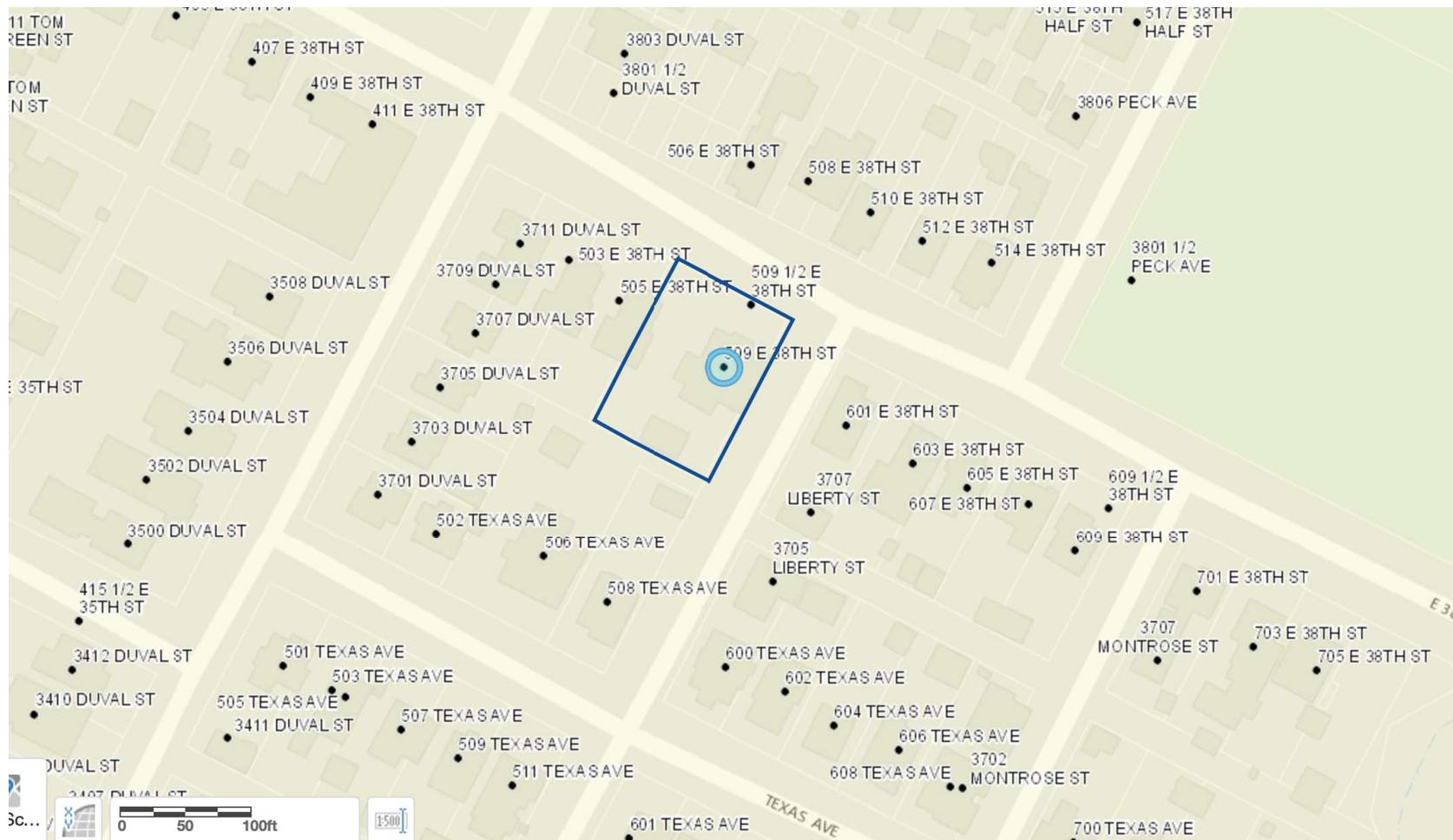
For information purposes, this is the 50-FT frontage required for a lot subdivision, which creates the rear lot line for the existing house.

DEMO PLAN

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



509 E 38th - Surrounding Properties





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](mailto:elaine.ramirez@austintexas.gov)**  
**Public Hearing: Board of Adjustment; May 9<sup>th</sup>, 2022**

*Friends of Hyde Park NA*  
 Your Name (please print)  I am in favor  
 I object

Your address(es) affected by this application \_\_\_\_\_  
 5/4/22  
 Signature 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](mailto:Elaine.Ramirez@austintexas.gov)

\*\*\* Internal Email - Executive Council \*\*\*  
 Date: 5/4/2022 12:29 PM  
 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 phishing or other phishing email, please forward the email to [cybersecurity@cityofaustin.gov](mailto:cybersecurity@cityofaustin.gov).

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

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\*\*\* 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](mailto:cybersecurity@austintexas.gov).

**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 during the public hearing.
- creating the issue of noncomplying rear setback in the application, and:
- occupying the property.
- is the owner of the property.
- is an owner of a structure constructed when the current code wasn't in place, so it isn't a relevant comparison.

A notice of public hearing will be available

For additional information on the public hearing process, visit

[www.austintexas.gov/devservices](http://www.austintexas.gov/devservices)

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](mailto:elaine.ramirez@austintexas.gov)

**Public Hearing:** Board of Adjustment; May 9<sup>th</sup>, 2022

Abbey Ames

Your Name (please print)

<input type="checkbox"/>	I am in favor
<input checked="" type="checkbox"/>	I object

508 Texas Ave. Austin, TX 78705

Your address(es) affected by this application

Abbey Ames

Signature

5/3/2022

Date

Daytime Telephone: 713-444-0272

Comments: At this point in time, I have not received a call back from applicant to discuss my questions & concerns. Therefore, if a decision must be made today instead of a postponed meeting, I object to the current proposal. Ultimately, I would strongly prefer they subdivide to an east & west lot (to which I'd be more open to variance exemptions) as it would be visually similar to other lots on 38<sup>th</sup> St. Proposal of lot 2 (& inevitable construction) would impact large trees which would negatively impact privacy & aesthetics of neighborhood.

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](mailto:Elaine.Ramirez@austintexas.gov)