

2614 Canterbury Street  
Austin, Texas 78702

C15-2022-0067

Variance request for two sheds encroaching into the 5' side yard setback (25-2-492 Site Development Regulations)

SF-3 Residence

Original house built in 1940  
Addition built in 2013

Applicants:  
Laura McQuary  
José Minguell

## Brief History of the Property

Since moving into our home in 2007, we have tried to maintain its historic character as a small bungalow with wood siding and a friendly front porch that faces the neighborhood. When we moved into the house, there was a metal shed against the sideyard property line. When looking through the city GIS archives, before that shed, sometime in the 80s, there was a small garage along the side yard property line.



1987

COA Property profile website.

CITY OF AUSTIN HISTORIC RESOURCES SURVEY – VOLUME I

### GARAGE

The garage, a building constructed to house vehicles, is the most common example of a residential outbuilding property type. Within East Austin, garages were constructed from 1900 to around 1970.

#### Character-defining features of a Garage

- One-room building with a rectangular plan and a gabled roof.
- Exterior materials are typically weatherboard, board-and-batten, or metal siding.
- Little to no stylistic detailing.
- Typically located behind and to one side of main house, and connected to the street by a driveway.



Figure I-172. Example of a **garage** located at 2201 East Cesar Chavez (1st) Street. Standing at the rear of the main house, it is a one-room wood-frame structure clad in wood siding with no stylistic influences. Source: Photo by HHM, 2016.

I.5. Property Types  
I-220

COA Historic Resources Survey

Historically, for our property, the side yard has been the most suitable location for a storage area since the driveway runs directly along the property. Interestingly, the City of Austin Historic Resources Survey done in 2016 for our area even mentions these small sheds and shed-like garages as being typical to the neighborhood, and has a reference photo of one that encroaches the current setbacks and sits on the property line.



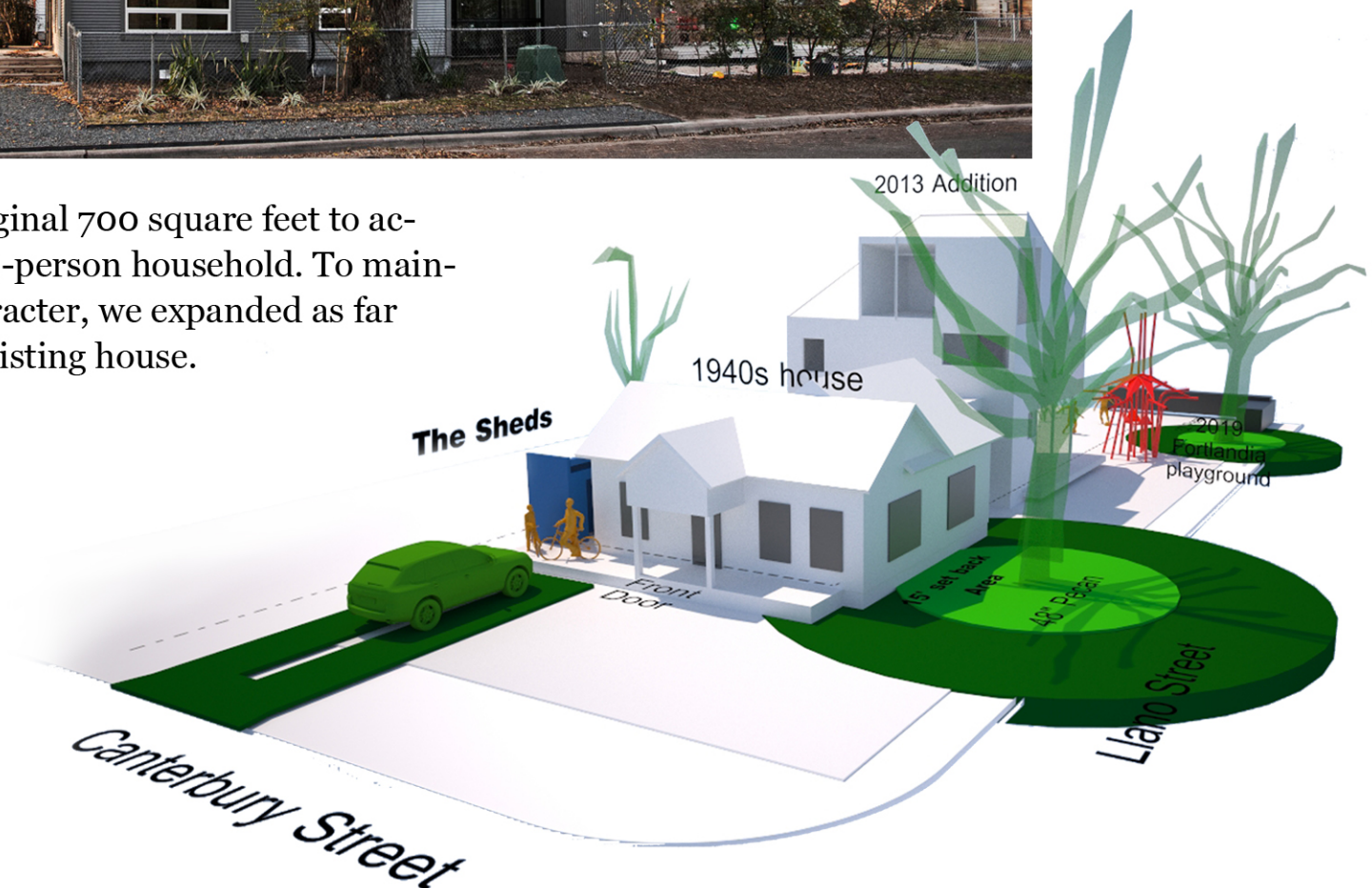


2018

Minguell-McQuary

In 2013, we added to the original 700 square feet to accommodate our expanding 5-person household. To maintain the home's original character, we expanded as far away as possible from the existing house.

3d  
model existing conditions





## ITEM9/4-PRESENTATION

Although we would not want to demolish our house to build a driveway-accessible garage, because of the large heritage tree, we would only have 18' of buildable front façade to do so. This is narrower than the standard garage. We would have to sacrifice the character of the house, front porch, and façade (which are not protected by the Code) to have a layout more useful for a modern lifestyle. It is no wonder that the new homes in our neighborhood have large garages that face the street rather than the friendly front porches built in the 40s.



**CODE COMPLIANT** House with accessible garage or storage  
Austin American Statesmen

**Our House** No garage or storage  
Minguell-McQiary



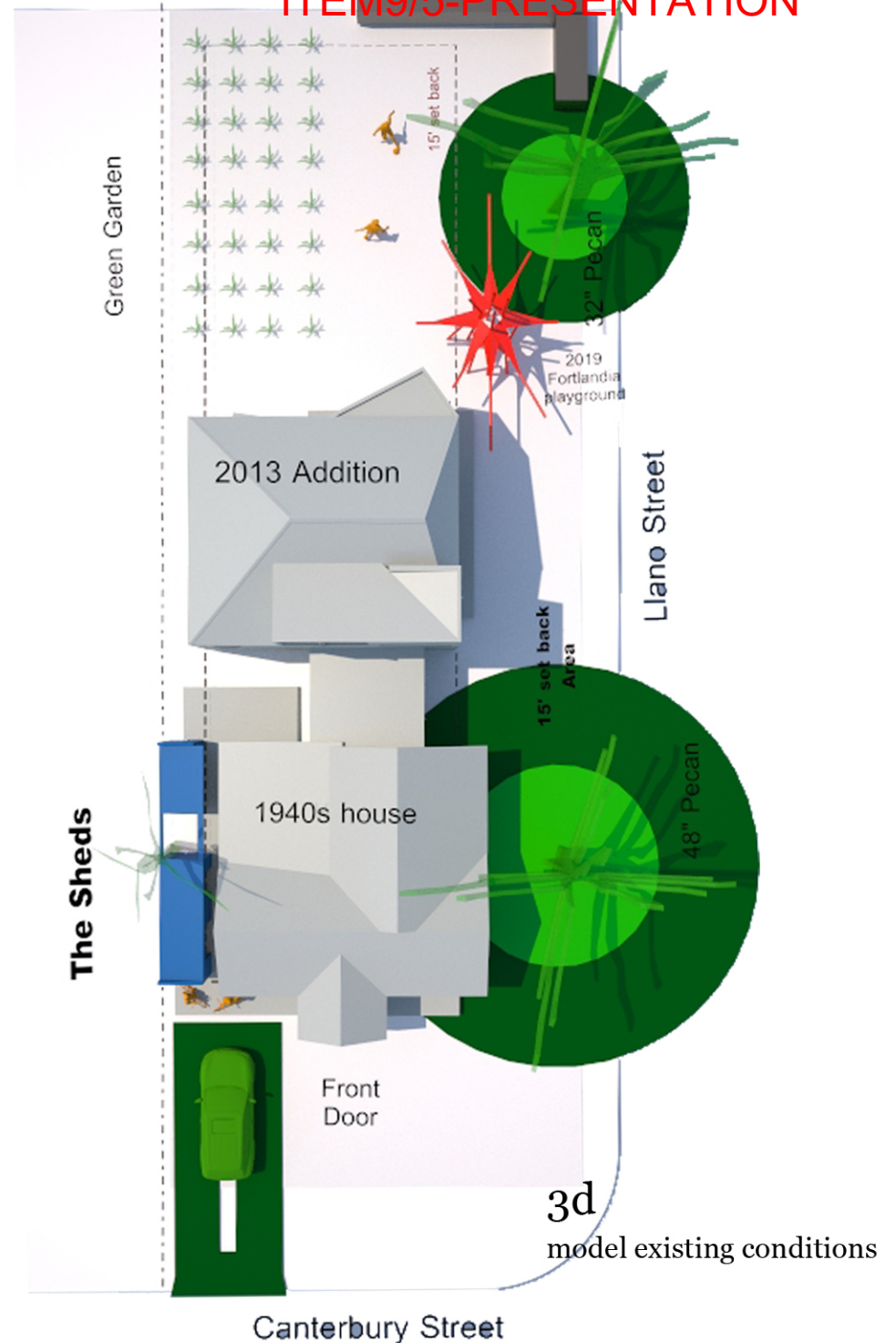
Again, we are making every effort to keep the historic quality of the neighborhood but are requesting that an accommodation be made to the Code so that our front façade maintains the historic scale and continues to be useful and used. It is through use and daily interactions that neighborhoods maintain their vibrance. We enjoy the fact that we go to work through our front door, can say Hi to our neighbors from our front porch, and our kids can get their bikes from the front of the side yard to bike over to their friend's house.



## The Request

As stated in my application, under the current Code and due to a very large pecan heritage tree, a 1940s house sited per antiquated zoning standards, and a driveway that runs along the property line, I cannot build a garage, carport, nor storage area that would be accessible from the driveway and house. I believe the need for such a structure (a garage, carport, or accessible storage area) is a reasonable need and use in today's lifestyle.

I am not asking for a variance to build something new but rather to maintain two small sheds that satisfy our family's needs. After reviewing the site constraints and the portion of the Code in question, one would think that two sheds (even if rebuilt with a different appearance than previously) that encroach within the 5' sideyard setback are a reasonable use of this portion of property. I have also provided letters of support from our immediate neighbors as well as some close-by neighbors.





## ITEM9/6-PRESENTATION



The Sheds





## Reasonable Use

To further prove that the current Code does not allow for "reasonable use," it is important to clarify the portion of the Code for which the variance is requested; 25-2-492 Site Development Regulations for a Side Yard setback of 5 ft. During our hearing, there was a brief conversation between the board members regarding the purpose and origin of the 5' yard setback. One of the board members commented that the 5'-yard setback is in place for fire reasons. This reasoning is incorrect. The proof of this is within the Code, as it allows for zero lot line structures (townhouses, duplexes, etc.). Since this topic was part of the deliberations and probably played a role in the outcome of my variance request, it necessitates a response regarding reasonable use.

Trying to find an explanation and reason for setbacks is like why, as a young male in a strict religious school, I was required to have short hair under the guise of hygiene. Ironically hair length was not an issue for young females, they could have long hair.

The real reason for this requirement was, "that's how boys are 'supposed' to look," and hygiene was the cover-up story.

The reason we have setbacks is the same; that's how cities and neighborhoods are "supposed" to look. We premise the need for setbacks under the guise that they ensure "adequate light, air, privacy, and open space for each dwelling." The reality is, as with the short haircut requirement for boys, the setback rule is an imposition of cultural views and values upon homeowners.



Vintage illustration from 1944 advertisement



The current setbacks impose an Anglo-American view of how a city should look. They ensure that any other urban housing form, urban cultural expression, or urban tradition is suppressed, the same way haircut rules crush any self-expression or LGBTQ concerns within a school's young male population.

As a Latino, I come from a wide culture of zero-lot-line urban building types. One of my favorites is the courtyard house. This beautiful form allows for true exploration of the indoor-outdoor lifestyle with vast amounts of natural light and ventilation without compromising privacy. As a result, the yard and garden become unifying aspects of the house and family life.



This zero-lot-line building type allows for proper land optimization, unlike the bleak landscape and reality of the side yard setback. Sadly, this beautiful form of living is not a heritage I, a Latino architect and builder, can pass on to my children here in Austin. Such a form is impossible within Austin's urban fabric under its current Code and zoning. Instead, side yards, with their tall fences, lack of landscaping, and utility, are so forced that neighborhoods just a few miles from downtown are subject to the suburban single-family, white picket-fenced look.

## 5' side yard setback

2702 E12th Street. Minguell-McQuary project feature on The AIA Homes Tour



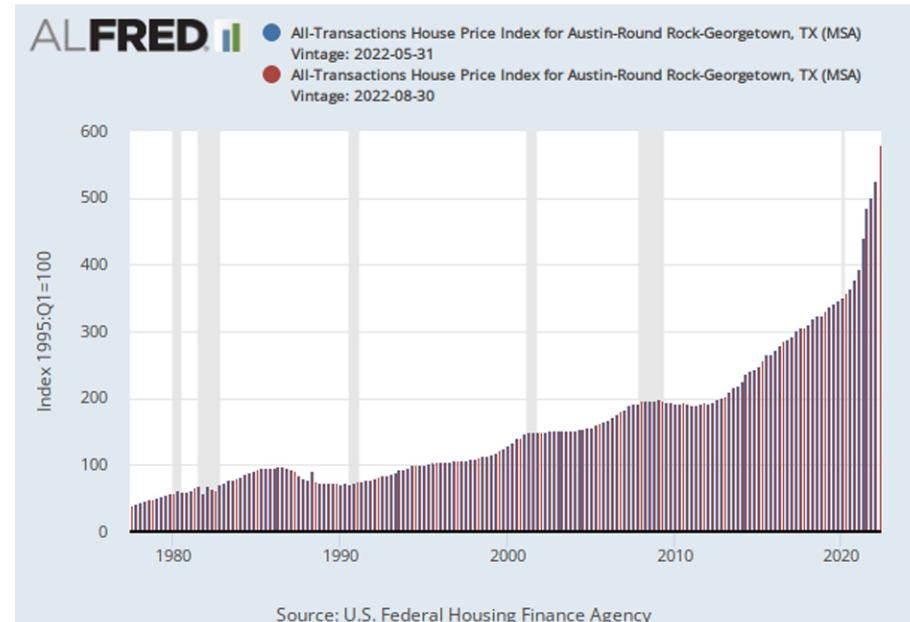
## ITEM9/9-PRESENTATION

The history and origins of setbacks in America can be found in Kenneth Jackson's "Crabgrass Frontier: The Suburbanization of the United States":

*"In actuality zoning was a device to keep poor people and obnoxious industries out of affluent areas. And in time, it also became a cudgel used by suburban areas to whack the central City. Advocates of land-use restrictions in overwhelming proportion were residents of the fringe. They sought through minimum lot and setback requirements to ensure that only members of acceptable social classes could settle in their privileged sanctuaries. Southern cities even used zoning to enforce racial segregation. And in suburbs everywhere, North and South, zoning was used by the people who already lived within the arbitrary boundaries of a community as a method of keeping everyone else out. Apartments, factories and 'blight,' euphemisms for black and people of limited means, were rigidly excluded."*

Austin is going through an all-time high record for property values, where many citizens cannot afford to live in its urban area due to property taxes or property values. One of the reasons for this is that Austin is an extremely low-density city. Even as the City's population grows, urban neighborhoods are not allowed to increase their FAR or density. Low density is a luxury that only wealthy citizens can afford. The current Code and its setbacks facilitate this inequality. The current Code dates back more than 50 years when land use and property values weren't such a detrimental issue for the entire Austin community. The City recognizes this as they have been trying to change the Code for many years.

Perhaps we should not use this same antiquated mindset to defend, judge, or rule on properties' reasonable use. With a variance under the current Code and with my property's site constraints, my house and property can neither be kept as it is nor developed to meet reasonable, economic, and modern residential standards.



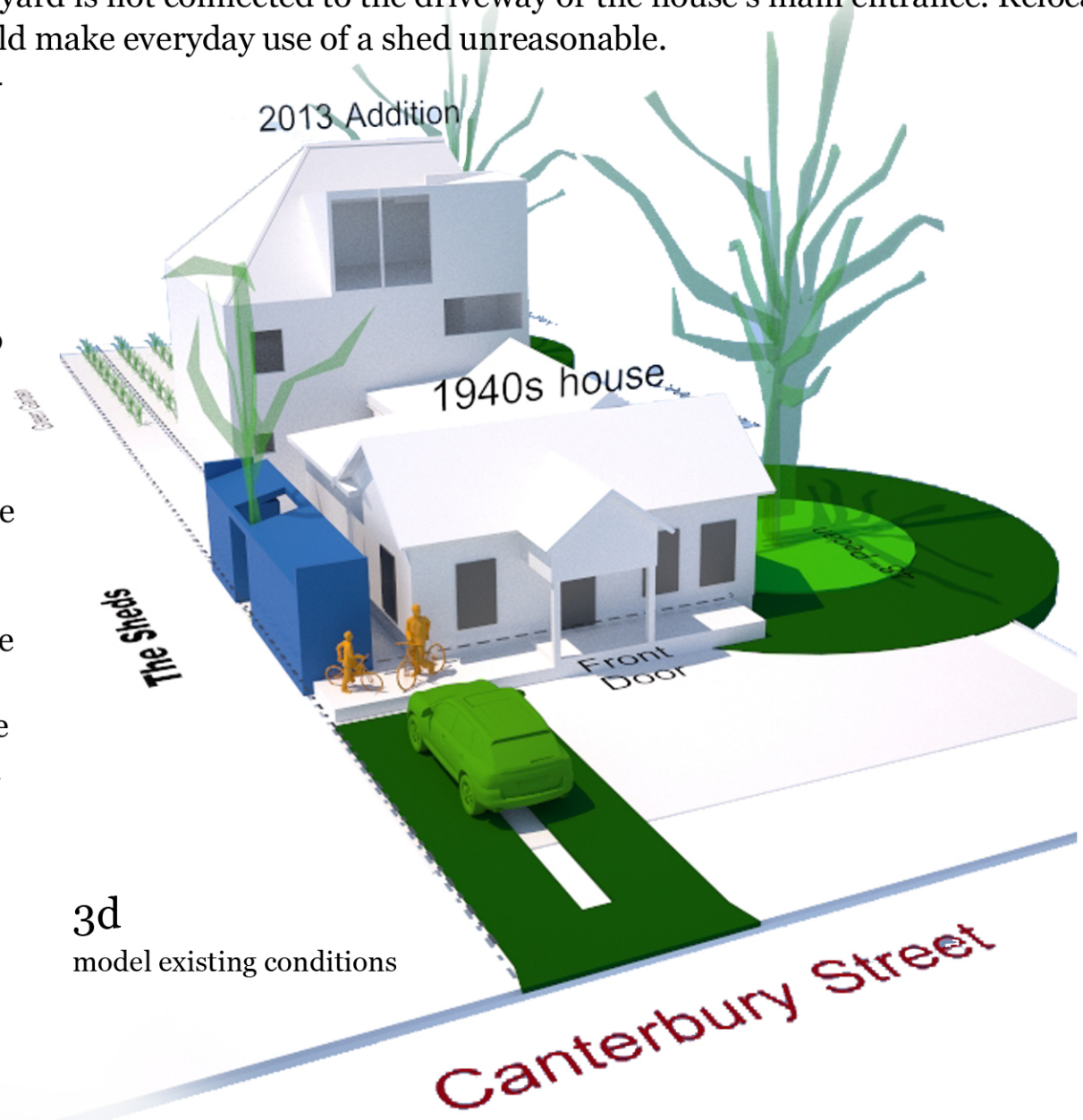
## Code Allowed Exemption

Also, during the hearing, a board member pointed out that we could use our backyard for the location of the sheds needed. I was not given an opportunity to explain why this option would be unreasonable. If implemented, it would provide a hardship to our family. The back yard is not connected to the driveway or the house's main entrance. Relocating the shed anywhere else in the yard would make everyday use of a shed unreasonable.

We are the proud parents of two small children; one attends Becker Elementary, and the other attends Kealing Middle school.

We live somewhat close to Kealing but not far enough to qualify for the school bus route. Our house is 2.1 miles away, making a 40-minute walk difficult for our son to do in the morning. So we encourage him to ride his bike, not just to free us from driving, but as a healthy, environmental, and community-building experience. We believe that it is reasonable to have a place that is accessible and safe for us to keep bikes. In most modern homes, this would be a garage easily accessible from the main house and driveway. Interestingly, the Code allows the installation of green energy equipment and structures within the setbacks.

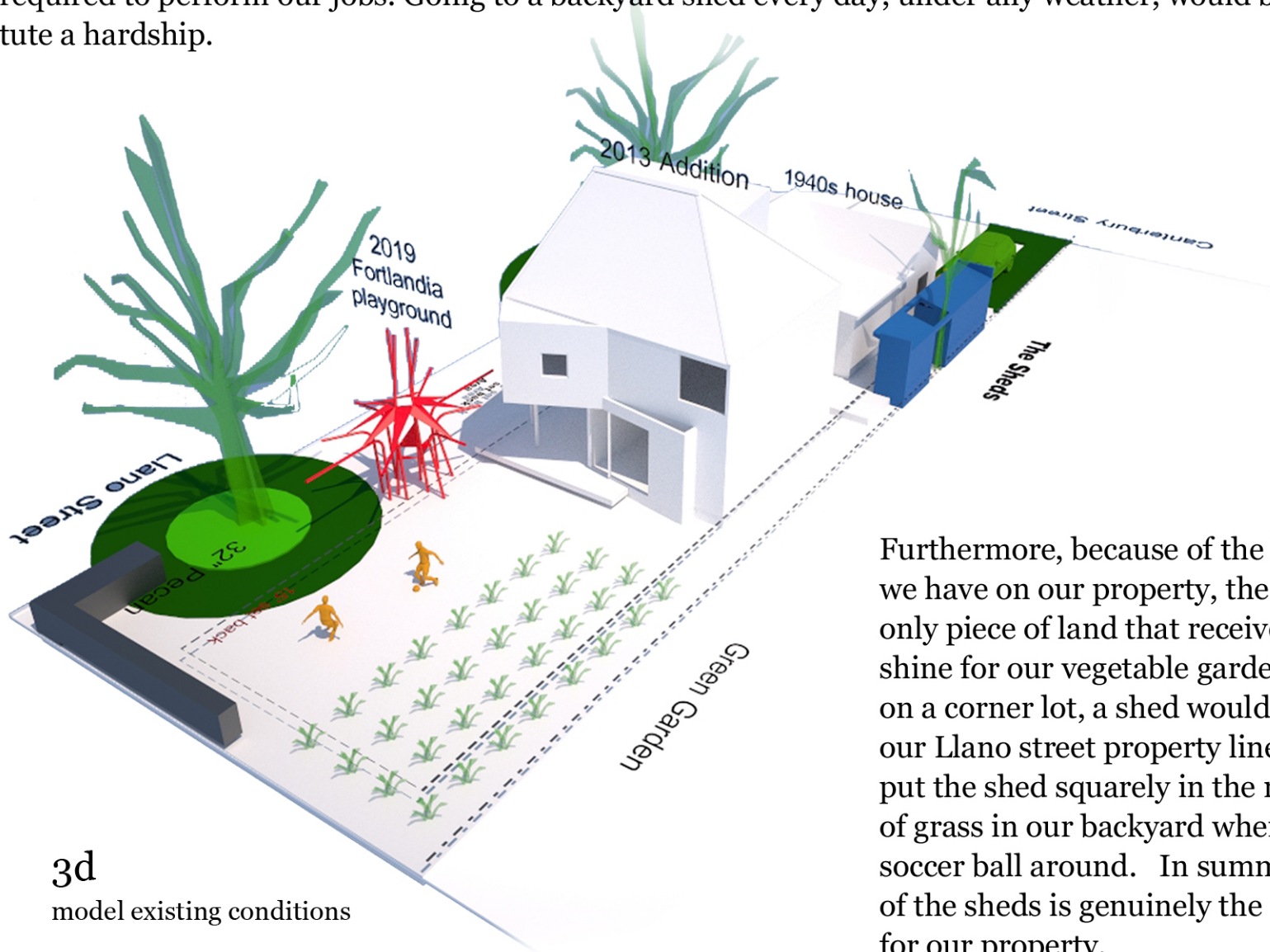
Using that same setback variance to store bikes seems like an appropriate allowance as it also encourages a more environmentally friendly lifestyle (ref: § 25-2-513 - OPENNESS OF REQUIRED YARDS. (B)).





## Site Hardship

I have reviewed the physical site constraints regarding the front yard: the heritage tree and the driveway location. There is an additional site constraint that may not be so visible at first glance but reiterates the changing needs of modern society. Both my wife and I are architects and construction supervisors. We frequently load and unload tools required to perform our jobs. Going to a backyard shed every day, under any weather, would be impractical and constitute a hardship.



3d

model existing conditions

Furthermore, because of the large pecans trees that we have on our property, the back side yard is the only piece of land that receives enough direct sunshine for our vegetable garden. Also, because we are on a corner lot, a shed would have to be 15' away from our Llano street property line. This constraint would put the shed squarely in the middle of the small patch of grass in our backyard where our kids kick the soccer ball around. In summary, the current location of the sheds is genuinely the only reasonable location for our property.

Thank you for your time and consideration.

Sincerely,

Jose Minguell  
Proud father of three  
& husband of Laura McQuary



A bike Shed