





**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**D-7**

**DATE: Monday July 11, 2022**

**CASE NUMBER: C15-2022-0061**

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

**APPLICANT: Nikelle Meade**

**OWNER: Cortlandt Chalfant**

**ADDRESS: 1401 3RD ST**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the Land Development Code, Section(s) 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum interior side yard setback from 5 feet (required) to 2.77 feet (requested) in order to complete a Single-Family residence in a “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

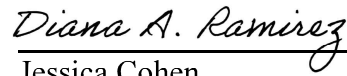
**BOARD’S DECISION:** JULY 11, 2022 The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postpone to September 12, 2022; Board member Melissa Hawthorne seconds on a 10-1 vote (Board member Barbara Mcarthur nay); POSTPONED TO SEPTEMBER 12, 2022.

**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

 for  
Jessica Cohen  
Madam Chair

August 26, 2022

The Board of Adjustment  
c/o Elaine Ramirez  
Planner Senior and Board of Adjustment Liaison  
City of Austin Development Services Department  
6310 Wilhelmina Delco Dr  
Austin, Texas 78752

Re. Request for Second Postponement: Case No. C15-2022-0061; Request for  
Side Yard Setback Variance to Preserve Existing Single-Family Home with  
Accessory Apartment at 1401 E. 3<sup>rd</sup> Street, Austin, 78702

On behalf of the owner of the above referenced Property, we respectfully request an additional postponement of the case to October 10<sup>th</sup> to allow additional time to continue our discussions with the neighboring property owner and the East Cesar Chavez Neighborhood Plan Contact Team. We have begun discussions with them regarding a workable resolution of this matter and need some additional time to complete those discussions and provide them with plans. Attached to this letter are emails documenting those ongoing discussions with neighbors, as well as the previous case information requested by the Board at the July 11<sup>th</sup> meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikelle Meade".

Nikelle Meade



---

**From:** Cort Chalfant  
**Sent:** Monday, August 8, 2022 12:04 PM  
**To:** Bryce Allison [REDACTED]  
**Subject:** RE: C15-2022-0061 / 1401 E 3rd St

Good morning Bryce,

Do you have time for a quick call in the next day or two?

Thx.

JVCC



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Cortlandt ("Cort") Chalfant  
Managing Member  
809 S. Lamar Blvd., Suite D  
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**From:** Cort Chalfant  
**Sent:** Wednesday, July 13, 2022 9:50 AM  
**To:** Bryce Allison [REDACTED]  
**Subject:** RE: C15-2022-0061 / 1401 E 3rd St

David,

Thanks very much for contacting me this morning.

Further to your suggestion about a possible sale of your property, let me know what number works for you. We can quickly decide if we would want to factor that into the planning that we're otherwise doing. If it works, great. If it's too rich then we will simply work on our plans for a repurposing of our property while being sure to keep you and the HOA informed.

I really appreciate your return call. Let's keep in touch.

JVCC

P.S. – I return from well-deserved time off on 7/30 but, I will be monitoring email and texts periodically while gone.



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---

**From:** Bryce Allison <[REDACTED]>  
**Sent:** Wednesday, July 13, 2022 9:38 AM  
**To:** Cort Chalfant [REDACTED]  
**Subject:** Re: C15-2022-0061 / 1401 E 3rd St

Hi Alecia and Cortland,

I wanted to make sure you had my contact information. Please feel free to reach out if you'd like to discuss the case.

Thanks,  
David Allison  
512-522-2792

On Tue, Jul 12, 2022 at 3:47 PM Ramirez, Elaine <[Elaine.Ramirez@austintexas.gov](mailto:Elaine.Ramirez@austintexas.gov)> wrote:

Hi David,

I am reaching out to you to try and facilitate contact between you and the Owner/Agent of 1401 E 3<sup>rd</sup> St. The Agent – Alecia Mosadomi with Husch-Blackwell has reached out to me and would like to have communication with you on the above BOA case #/address as soon as possible.

You can reach out to either the Owner or Agent or both to start these conversations.

Owner: Cortlandt Chalfant      512-230-9867      [REDACTED]

Agent: Alecia Mosadomi      512-417-2083      [REDACTED]

---

**From:** Cort Chalfant  
**Sent:** Friday, August 12, 2022 1:12 PM  
**To:** Eric Ryan Pace [REDACTED]  
**Cc:** Kristen Heaney <[REDACTED]>  
**Subject:** RE: Initial Contact Re: 1401 E. 3rd Street

Yay!

Kristen, Eric and Cort at 1:30. Zoom invite is already in your inbox. See you then. Thanks!

JVCC





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**From:** Eric Ryan Pace [REDACTED]  
**Sent:** Friday, August 12, 2022 1:11 PM  
**To:** Cort Chalfant <[REDACTED]>  
**Cc:** Kristen Heaney [REDACTED]  
**Subject:** Re: Initial Contact Re: 1401 E. 3rd Street

I'll be able to join. -ep

On Fri, Aug 12, 2022 at 12:02 Cort Chalfant <[REDACTED]> wrote:

Eric and Kristen,

Very sorry for not responding yesterday. Was on the road all day.

I am available from now thru 3 pm today if you can happen to hop on a call.

Thx.

JVCC



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---

**From:** Eric Ryan Pace <[REDACTED]>

**Sent:** Thursday, August 11, 2022 11:54 AM

**To:** Cort Chalfant [REDACTED]

**Cc:** Kristen Heaney <[REDACTED]>; Mosadomi, Alecia <[REDACTED]>

**Subject:** Re: Initial Contact Re: 1401 E. 3rd Street

Hi Cort, do you have availability tomorrow between 12-2pm? -rp

On Mon, Aug 8, 2022 at 1:20 PM Cort Chalfant [REDACTED] wrote:

Groovy. Will wait to hear from Eric.



Thx.

JVCC



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---

**From:** Kristen Heaney <[REDACTED]>

**Sent:** Monday, August 8, 2022 12:26 PM

**To:** Cort Chalfant [REDACTED]

**Cc:** Eric Ryan Pace <[REDACTED]>; Mosadomi, Alecia [REDACTED]>

**Subject:** Re: Initial Contact Re: 1401 E. 3rd Street

Thanks Cort. And to be clear I'm available after those times as well.

Eric, please chime in.

On Aug 8, 2022, at 12:10 PM, Cort Chalfant [REDACTED] wrote:

Kristen,

Thanks for circling back so promptly. Zoom works fine for me, too.

As of right now, I can make either of your Tuesday (tomorrow) at 10:30 or Wednesday at 2:30. In both cases, I'm limited to 30-mins but, I can't image we would need more than about 15-20 minutes anyway... I'll wait to hear back from Eric and circulate a zoom invite thereafter.

Best,

JVCC

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**From:** Kristen Heaney <[k\[REDACTED\]](#)>  
**Sent:** Monday, August 8, 2022 12:04 PM  
**To:** Cort Chalfant <[\[REDACTED\]](#)>  
**Cc:** Eric Ryan Pace <[\[REDACTED\]](#)> Mosadomi, Alecia  
<[\[REDACTED\]](#)>  
**Subject:** Re: Initial Contact Re: 1401 E. 3rd Street

Hello Cort,

While I do love an in person meeting it may be easiest to plan this on zoom.

My availability this week is as follows. Eric, I'd love to have you. There as well so please follow up with your workable times.

TU 8/9 - After 10:30 AM

W 8/10 - After 2:30 PM

TH 8/11 - After 10:30 AM

Cheers!

On Aug 8, 2022, at 11:41 AM, Cort Chalfant [REDACTED] wrote:

Good morning Eric,

Just a quick follow up. I think I gave you the courtesy last week of setting the date and time for a short meet & greet. Please let me know if you can find 30-mins this week to connect either on site or anywhere of your choice. Additional notes as follows:

- Purpose for the preliminary meet & greet is:
  - You can meet me and I can meet you and Kristen. I'm a believer in personal rapport.
  - I can bring you up to speed briefly on our sob story. – Not that we're asking for any special favors but, we're transparent and you will learn about some of the constraints we're wrestling with. They are relevant from a design development perspective.
  - I can listen. Specifically, your preliminary input will be factored into our design development. – I prefer not to put pen to paper without first getting fundamental input from the neighborhood. Otherwise, we can end up having to make major modifications to concepts that invest a lot of time into developing needlessly (if they are not ultimately endorsable for the neighborhood).
- Our architect is not able to generate sufficient exhibits in time for us to make your August 17<sup>th</sup> agenda. They would have to come up with concepts, I would have to bless them and in both cases, we have no specific feedback from you and other neighbors yet. With that in mind, can I kindly ask you to pull us from the August 17<sup>th</sup> agenda, assuming we were on one?
- Since we will not have advanced the ball far enough with neighborhood stakeholders by late August, we will either withdraw our variance request with the city or request a continuance on September 12<sup>th</sup>. We will not pursue any variance without sufficiently engaging neighborhood stakeholders.

O.k., there's a short update. Please circle back with a meeting date that works for you and Kristen when you can, please.

All the best,

JVCC

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[REDACTED]

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Willing to write a Google Review? We would appreciate it! Click here:

<https://g.page/nexusprivatecapital/review?gm>

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**From:** Eric Ryan Pace <[REDACTED]>  
**Sent:** Tuesday, August 2, 2022 8:36 PM  
**To:** Cort Chalfant <[cchalfant@nexuslending.net](#)>  
**Cc:** Kristen Heaney <[REDACTED]>; Mosadomi, Alecia  
<[REDACTED]>  
**Subject:** Re: Initial Contact Re: 1401 E. 3rd Street

Hi Cort,

Absolutely, I'm happy to help. Did you have a day/timeframe in mind? I have a busy schedule these days, but we should be able to find a time that works.

Also would be great to include our land use committee chair, Kristen Heaney (cc'd), if she's available.

Best, -ep

On Tue, Aug 2, 2022 at 16:44 Cort Chalfant [REDACTED] wrote:

Greetings Eric,

I received your contact information from Alecia Mosadomi, Husch Blackwell, who we have retained to assist with redevelopment of the property identified above.

As you probably learned from her, our company is the reluctant owner of the property (we're actually a lender that took possession of the property thru foreclosure). We (I) operating in a way that is very different from the prior owner. We pride ourselves on transparency and collaboration, which explains why you received a call from Alecia and now me.

We are at the front-end of planning work for the property and would like to expand our lines of communication with the neighborhood. With that in mind, would you be willing to meet me briefly so you can get a clear update on both history and our preliminary thinking/plans? Obviously, the more we hear directly from you and neighbors, the better we can produce a project that adds value to the neighborhood. – A goal that is important to me as I'm sure it is to you.

Thanks for volunteering with the neighborhood association. I look forward to your thoughts.

Best,



JVCC

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**From:** Cort Chalfant  
**Sent:** Tuesday, August 16, 2022 4:49 PM  
**To:** [REDACTED]  
**Subject:** thanks!

Greetings Kristen and Eric,

Thanks very much for your time last Friday. I appreciate your giving me a chance to meet you "in person".

Question: What is the time and location for the Neighborhood meeting tomorrow? I plan on attending to say hello/meet & greet.

Best,

JVCC



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**From:** Kristen Heaney [REDACTED]  
**Sent:** Thursday, August 18, 2022 11:14 AM  
**To:** Tomas Espinoza [REDACTED]  
**Cc:** Cort Chalfant <[REDACTED]> Eric Ryan Pace [REDACTED]  
**Subject:** Re: Eastside Meeting

My apologies. I forwarded an email that had been previously circulated with the meeting details and it used the word “tomorrow” which caused confusion. The agenda states the correct date of 8/17/2022 which I believe we shared with Cort in our phone call last week. Our general meetings are always the third Wednesday of the month.

We’re looking forward to learning more about the projects progress and any specific asks you have of the team In September.



On Aug 18, 2022, at 11:09 AM, Tomas Espinoza [REDACTED] > wrote:

Kristen,

I asked yesterday at what time the meeting will be held and your response stated it was going to be today.

Hello ECC Neighbors,

The August ECC NPCT general meeting will be held tomorrow in a **HYBRID format**:

- In-person at **KMFA Studio** located at [41 Navasota St](#), AND
- Virtually via this **Zoom** link: <https://us02web.zoom.us/j/88307040492>.

Thanks,  
Tomas

---

**From:** Kristen Heaney [REDACTED]  
**Sent:** Thursday, August 18, 2022 10:49 AM  
**To:** Cort Chalfant [REDACTED] >  
**Cc:** Tomas Espinoza [REDACTED] Eric Ryan Pace [REDACTED]  
**Subject:** Re: Eastside Meeting

The meeting was last night, friends. We shared an update on your project and have added you to our agenda for September

On Aug 18, 2022, at 10:15 AM, Cort Chalfant <[cchalfant@nexuslending.net](#)> wrote:

Thanks Kristen,

See you there.

JVCC

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**From:** Kristen Heaney <[REDACTED]>  
**Sent:** Wednesday, August 17, 2022 2:36 PM  
**To:** Tomas Espinoza <[REDACTED]>  
**Cc:** Eric Ryan Pace <[REDACTED]>; Cort Chalfant <[REDACTED]>  
**Subject:** Re: Eastside Meeting

6 PM

On Aug 17, 2022, at 2:24 PM, Tomas Espinoza  
[REDACTED] wrote:

Kristen,

What time is the meeting at?

Sent from my iPhone

On Aug 17, 2022, at 2:20 PM, Kristen Heaney  
<[REDACTED]> wrote:

Hello ECC Neighbors,

The August ECC NPCT general meeting will be held tomorrow in a **HYBRID format**:

- In-person at **KMFA Studio** located at [41 Navasota St](#), AND
- Virtually via this **Zoom** link: <https://us02web.zoom.us/j/88307040492>.

The meeting agenda is [available online here](#), which includes updates from the **Austin Transportation Department** and **RBJ Redevelopment**.

Also of note, we've invited each of the District 3 City Council candidates to introduce themselves at our September 21 general meeting.

If you have not had a chance to visit KMFA's new home, I encourage you to take this opportunity

to **visit the studio + engage with ECC neighbors**. The meeting conference room is **788 square feet** and provides ample space for attendance. On the other hand, if you're not a people person or don't have the capacity to attend in person, **the virtual experience is relatively seamless thanks to new technology**.

In either case, **I look forward to seeing everyone tomorrow evening!** Please don't hesitate to contact me if you have any questions.

Best,  
Eric Pace, Chair  
ECCNPCT

### **2022 General Meeting Dates**

August 17  
September 21 - District 3 Candidates  
October 19  
November 16  
December 21

On Wed, Aug 17, 2022 at 11:57 AM Tomas Espinoza

<[REDACTED]> wrote:

Eric & Kristen,

My I have the address where the meeting will be held today?

Thanks

---

**From:** Cort Chalfant  
**Sent:** Thursday, August 25, 2022 11:12 AM  
**To:** Bryce Allison [REDACTED]  
[REDACTED] E. 3rd Street

Good morning David,

This is just a quick two-part note:

(a) thanks for calling me back late last week regarding an update on 1401 E. 3<sup>rd</sup> Street and for your feedback on our plans. We appreciate both very much.

(b) I have a meeting with our architects tomorrow late morning to see their concept plans for the property for the first time. We have been collaborating closely so, I suspect I'll like what I see. – Given our relatively tight schedule prior to the next Board of Adjustment meeting, etc. would you have time either late tomorrow, over the weekend or early next



week where I can show you what the architects have thus far come up with? I don't want to overly impose on your time but, we value your input very much.

Thanks again for working with us on this. We appreciate your input.

Best,

JVCC



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**From:** Cort Chalfant  
**Sent:** Thursday, August 25, 2022 3:20 PM  
**To:** Kristen Heaney <[REDACTED]>; Tomas Espinoza <[REDACTED]>  
**Cc:** Eric Ryan Pace <[REDACTED]>  
**Subject:** RE: Eastside Meeting

Thanks Kristen,

Also, fyi, I'm meeting with Becky and Alfredo tomorrow to see their work product for the first time. We have been collaborating closely so I suspect I'll like what I see. Assuming that holds up, I would love to put it in front of you and Eric for feedback either late tomorrow or early next week. Would that work for you?

Best,

JVCC



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**To:** Tomas Espinoza <[t\[REDACTED\]@nexuslending.net](mailto:t[REDACTED]@nexuslending.net)>  
**Cc:** Cort Chalfant <[c\[REDACTED\]@nexuslending.net](mailto:c[REDACTED]@nexuslending.net)>; Eric Ryan Pace <[e\[REDACTED\]@nexuslending.net](mailto:e[REDACTED]@nexuslending.net)>  
**Subject:** Re: Eastside Meeting

Yes, we are maintaining a hybrid option:

- In-person at **KMFA Studio** located at [41 Navasota St](https://www.kmfa.com/location), AND
- Virtually via this **Zoom** link: <https://us02web.zoom.us/j/88307040492>.

On Aug 25, 2022, at 10:54 AM, Tomas Espinoza <[tomas@nexuslending.net](mailto:tomas@nexuslending.net)> wrote:

Kristen,

What is the location of the meeting on September 21<sup>st</sup>? Is it the same location always?

Thanks,  
 Tomas

---

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**To:** Cort Chalfant <[REDACTED]>  
**Cc:** Tomas Espinoza <[REDACTED]>; Eric Ryan Pace <[REDACTED]>

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On Aug 18, 2022, at 10:15 AM, Cort Chalfant <[REDACTED]> wrote:

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JVCC

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- Virtually via this **Zoom** link: <https://us02web.zoom.us/j/88307040492>.

The meeting agenda is [available online here](#), which includes updates from the **Austin Transportation Department** and **RBJ Redevelopment**.

Also of note, we've invited each of the District 3 City Council candidates to introduce themselves at our September 21 general meeting.

If you have not had a chance to visit KMFA's new home, I encourage you to take this opportunity to **visit the studio + engage with ECC neighbors**. The meeting conference room is **788 square feet** and provides ample space for attendance. On the other hand, if you're not a people person or don't have the capacity to attend in person, **the virtual experience is relatively seamless thanks to new technology**.

In either case, **I look forward to seeing everyone tomorrow evening!** Please don't hesitate to contact me if you have any questions.

Best,  
Eric Pace, Chair  
ECCNPCT

### **2022 General Meeting Dates**

August 17  
September 21 - District 3  
Candidates  
October 19  
November 16  
December 21

On Wed, Aug 17, 2022 at 11:57 AM

Tomas Espinoza

<[REDACTED]> wrote:

Eric & Kristen,

My I have the address where the  
meeting will be held today?

Thanks

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet**

**DATE: Monday May 11, 2020**

**CASE NUMBER: C15-2020-0020**

☐ Y ☐ Brooke Bailey  
☐ Y ☐ Jessica Cohen  
☐ Y ☐ Ada Corral  
☐ Y ☐ Melissa Hawthorne  
☐ \* ☐ William Hodge (abstained)  
☐ Y ☐ Don Leighton-Burwell  
☐ Y ☐ Rahm McDaniel  
☐ Y ☐ Darryl Pruet  
☐ - ☐ Veronica Rivera (out)  
☐ Y ☐ Yasmine Smith  
☐ Y ☐ Michael Von Ohlen  
☐ Y ☐ Kelly Blume (Alternate)  
☐ Y ☐ Martha Gonzalez (Alternate)

**APPLICANT: Jennifer Hanlen**

**OWNER: Durham Trading Partners XII, LLC**

**ADDRESS: 1401 3RD ST**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum interior side setback from 5 feet (required) to 2.77 feet (requested) in order to complete a Single-Family residence in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

**Note:** currently under construction, layout error

**BOARD'S DECISION:** BOA meeting April 13, 2020 CANCELLED MEETING; MAY 11 2020 **The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to postpone to June 8, 2020, Board Member Rahm McDaniel seconds on a 10-1 vote (Board member Darryl Pruet nay, William Hodge abstained); POSTPONED TO JUNE 8, 2020.**

**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



May 5, 2020

Jennifer Hanlen  
1401 E 3rd St  
Austin TX, 78702

Property Description: W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

**Re: C15-2020-0020**

Dear Jennifer,

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 25-2-492 (*Site Development Regulations*) setback requirements; to decrease the minimum interior side setback from 5 feet (required) to 2.77 feet (requested)

In order to complete a Single-Family residence in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez 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

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2020-0020

**BOA DATE:** April 13, 2020

**ADDRESS:** 1401 E. 3<sup>rd</sup> St

**COUNCIL DISTRICT:** 3

**OWNER:** Durham Trading Partners

**AGENT:** Jennifer Hanlen

**ZONING:** SF-3-NP

**LEGAL DESCRIPTION:** W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

**VARIANCE REQUEST:** reduce interior side setback from 5 ft. to 2.77 ft.

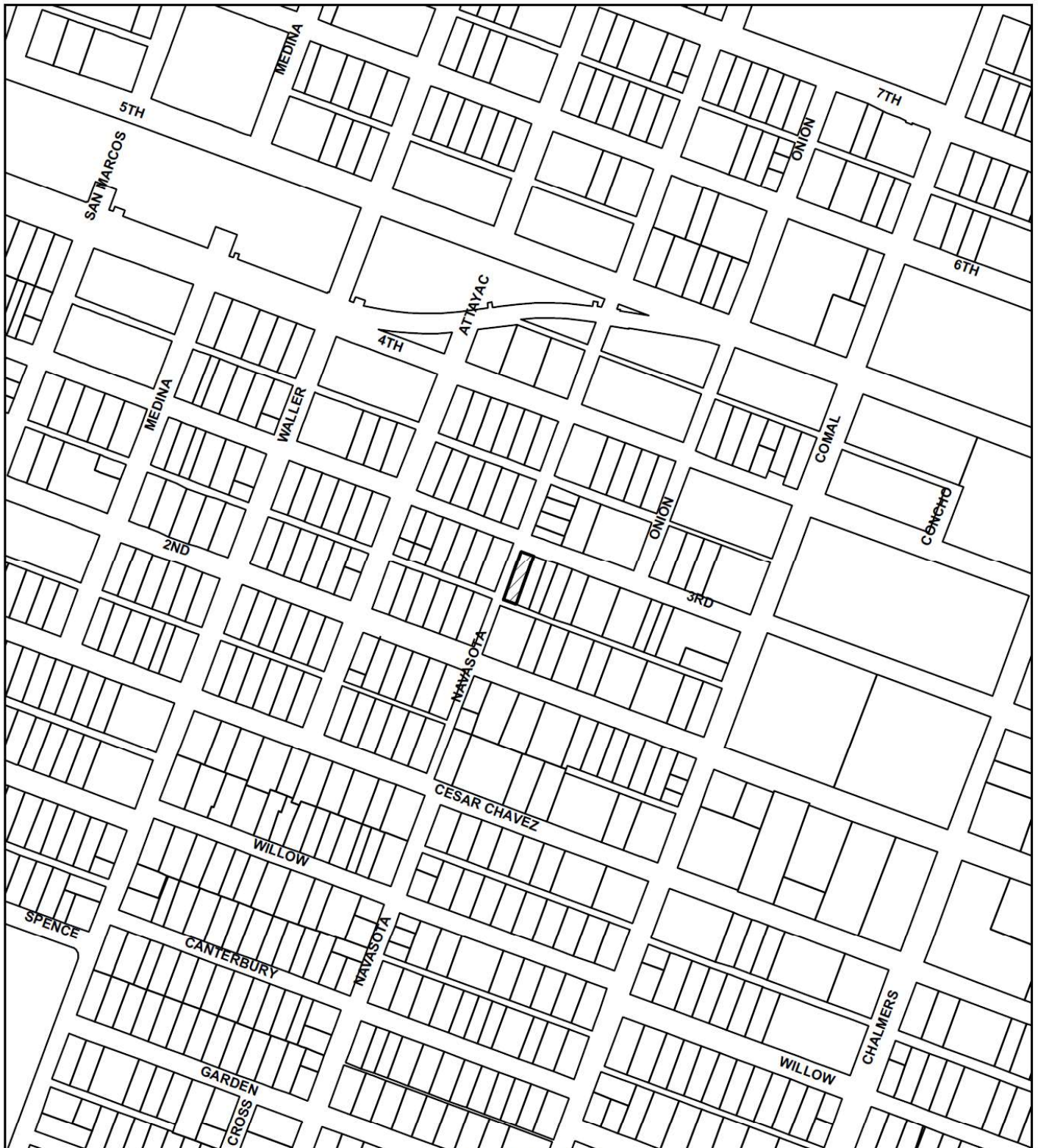
**SUMMARY:** complete construction of a Single-Family residence

**ISSUES:** layout error during construction

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

## **NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District  
 Austin Lost and Found Pets  
 Austin Neighborhoods Council  
 Barrio Unido Neighborhood Assn.  
 Bike Austin  
 Capital Metro  
 Del Valle Community Coalition  
 East Austin Conservancy  
 East Cesar Chavez Neighborhood Association  
 East Cesar Chavez Neighborhood Plan Contact Team  
 El Concilio Mexican-American Neighborhoods  
 Friends of Austin Neighborhoods  
 Greater East Austin Neighborhood Association  
 Guadalupe Neighborhood Development Corporation  
 Homeless Neighborhood Association  
 Neighborhood Empowerment Foundation  
 Neighbors United for Progress  
 Preservation Austin  
 SELTexas  
 Sierra Club, Austin Regional Group  
 Tejano Town



SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 333'

**NOTIFICATIONS**

CASE#: C15-2020-0020

LOCATION: 1401 E 3RD 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.







## CITY OF AUSTIN

## Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

**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: 1401 E 3 ST, AUSTIN TEXAS 78702

Subdivision Legal Description:

W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: SF3

I/We JENNIFER HANLEN on behalf of myself/ourselves as  
authorized agent for OWNER - DURHAM TRADING PARTNERS XII LLC affirm that on  
Month March, Day 10, 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: See Page 5

Type of Structure: SF RESIDENTIAL HOUSE ENCROACHING IN 2.77 FEET OF 5 FT SIDE SET



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

VARIANCE FROM 25-2-492 TO ALLOW A 2.77 ENCROACHMENT INTO THE REQUIRED 5' SIDE SETBACK FOR EXISTING SINGLE FAMILY RESIDENCE.

## 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:

SE-3 ZONING PROMOTES SINGLE FAMILY USES. THIS LOT IS 4852 SF AND LOCATED AT THE SW CORNER OF NAVASOTA ST. AND EAST 3RD. THE STREET SIDE SETBACK ALONG NAVASOTA IS 15 FT. THE CURRENT HOUSE IS PUSHED BETWEEN THE STREET SIDE SETBACK AND INTERIOR 5' SETBACK. A 1,985 SF HOUSE WAS PERMITTED BY COA. CONSTRUCTION OF THE HOUSE RESULTED IN A 2.77 FOOT SETBACK. THE HOUSE CAN NOT EXIST AS PERMITTED WITHOUT A VARIANCE.

### Hardship

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

THE 4,852 SF LOT IS A CORNER LOT. THE 15' STREET SIDE SETBACK REQUIRES 2,000 OF THE 4,852 SF LOT, ROUGHLY 40% OF THE LOT. THE REMAINING PORTION OF THE LOT HAS AN EXISTING SF RESIDENCE PERMITTED IN 2017. THE OWNER IS SEEKING A VARIANCE TO ALLOW THE 2.77 SETBACK ALONG THE 5' SIDE SETBACK.

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

THERE ARE NO KNOWN SITES WITH THIS ISSUE IN THE AREA.

**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:

ALLOWING THE SF RESIDENCE TO REMAIN AS PERMITTED WILL NOT ALTER THE CHARACTER OF THE AREA, WILL NOT IMPAIR USE OF THE ADJACENT PROPERTY, NOR IMPAIR PUPOSE OF THE REGULATIONS. THERE ARE A VARIETY OF ZONING ISSUES FOUND THROUGHOUT EAST AUSTIN.

**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:

N/A

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:

N/A

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

N/A

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

N/A



### 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: [Signature] Date: 3/12/2020

Applicant Name (typed or printed): JENNIFER HANLEN

Applicant Mailing Address: 105 W RIVERSIDE, SUITE 225

City: AUSTIN State: TX Zip: 78704

Phone (will be public information): 512 212 7632

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

### 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: [Signature] Date: 3/10/20

Owner Name (typed or printed): DURHAM TRADING PARTNERS XII, LLC

Owner Mailing Address: 920 E. DEAN KEETON ST

City: AUSTIN State: TX Zip: 78705

Phone (will be public information): 512 554 3647

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

### Section 5: Agent Information

Agent Name: JENNIFER HANLEN

Agent Mailing Address: 105 W RIVERSIDE

City: AUSTIN State: TX Zip: 78704

Phone (will be public information): 512 212 7632

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).

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

**Previously Denied BOA case C15-2020-0020**

[REDACTED]

March 19, 2020

City of Austin c/o Elaine Ramirez  
City of Austin Board of Adjustments  
One Texas Center  
505 Barton Springs  
Austin, Texas 78704

**BOA request for 1401 E 3rd St. to allow a 2.77' setback in the required 5' side setback**

- Legal tract located at 1401 E. 3rd St. is 4,852 SF; has had on-site utility service since 1926.
- Original residence was demolished in 2017 and a new residential permit application was submitted to city of Austin.
- Application was approved by city of Austin; new single-family residence constructed in accordance with plans.
- The plot plan was accurate and was based on the accurate survey; however, an incorrect version of the survey was used to set the construction forms.
- A survey error based on confusing ROW widths in the adjacent alley created a 2.7' side yard setback during construction of the SFR & accessory apartment.
- This was not known until contractor called for final inspection and certificate of occupancy and preparation of the owner occupying the residence.
- Surveyor then surveyed entire block alley in order to understand where error was created.
- The intersection of the rear public alley and intersecting Navasota Street have varying widths. These intersecting ROWs allowed multiple opportunities for error.
- The new single-family residence has a varying encroachment into the 5' side yard setback, creating a side yard setback ranging from 2.77' to 4.0'.
- There are no known examples like this in the immediate area, but is probable in the larger east Austin geography.
- This small setback encroachment does not impair the intent of the zoning regulations, nor does it have any adverse impact on adjacent or surrounding properties.
- All inspections have passed except the building permit's final inspection. The Certificate of Occupancy can be granted if the variance is approved.

Sincerely,



David C. Cancialosi, Agent for Owner

