

If you need assistance completing this application (general inquiries only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # C15-2014-0008  
ROW # 11561410  
TP-010202-09-04

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

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

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 911 Retama Street; Austin, TX 78704

LEGAL DESCRIPTION: Subdivision – Bouldin Creek, A Subdivision in Travis County, TX

Lot(s) 15 & 16 Block 3 Outlot Arboles Estates Division Section 3

I/We Robert Thomas and Aylin Thomas on behalf of ourselves as authorized agent for ourselves affirm that on Nov 27, 2013, hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

X ERECT \_\_\_ ATTACH \_\_\_ COMPLETE \_\_\_ REMODEL \_\_\_ MAINTAIN

A replacement fence on the property line between our home and the home of our neighbors at 803 Dawson Road, who mutually agree to the erection of an 8-foot fence (Letter of agreement from Eric and Aleshia Bonilla attached).

in a SF-3-NP district.  
(zoning district)

**NOTE: 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 support documents.**

**VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):**

### **REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Our property at 911 Retama St. is situated at an elevation approximately 6 feet higher than our neighbors' property at 803 Dawson Road. The two properties are currently separated by a retaining wall with a 4-foot fence on top of the wall. The wall is failing and must be replaced. As a result of removing and replacing the existing retaining wall, the existing fence on top of it must also be replaced. Current zoning regulations do not allow for a fence on the property line because of the elevation difference between our house and that of our neighbor's. We are requesting approval to replace the existing fence with a new 8-foot fence, with mutual agreement from our neighbors at 803 Dawson Road (per attached letter from Eric and Aleshia Bonilla). It should be noted that from the perspective of our yard, there would be no issues and we could submit for a fence permit under the standard processes. However, from the perspective of our neighbor's yard, the fence will be outside of the 8' maximum as a result of the difference in elevation.

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### **HARDSHIP:**

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

The two properties on either side of the property line are on different elevations. 911 Retama Street is on higher elevation (approximately 6 feet) than the adjacent property at 803 Dawson Road. The two properties are separated by a retaining wall with a fence, which is currently positioned atop the wall. The wall is failing and must be replaced. The fence, which sits atop the wall must also be replaced as a result. We are requesting to replace the existing fence with a new fence, which is within zoning regulations, as they would apply if the two properties were at the same elevation. Both property owners (ourselves and our neighbors at 803 Dawson Rd) are in agreement with the erection of the proposed fence, which will not obstruct the view of other neighbors and will not change the character of the neighborhood.

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

Most homes in this neighborhood exist at continuous elevation levels between adjacent properties. This situation is unique because the adjacent properties are on dramatically different elevations, separated by a retaining wall.

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### **AREA CHARACTER:**

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:

The fence is a replacement to an already existing fence. The replacement fence will not alter the character of the Bouldin Creek neighborhood and will not impair the use of

adjacent conforming property. If there were no difference in elevation between the properties, we would be able to file for a standard fence permit. Our intent is to build a fence that is consistent with city regulations and of the character of our neighborhood.

**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 Section 479 of Chapter 25-6 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 reasonable require strict or literal interpretation and enforcement of the specific regulation because:

Not applicable

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:

Not applicable

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

Not applicable

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

Not applicable

**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.

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

Signed  Mail Address 911 Retama Street

City, State & Zip Austin, TX 78704

Printed Robert M Thomas Phone 512-577-9103 Date 11/27/13

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

Signed  Mail Address 911 Retama Street

City, State & Zip Austin, TX 78704

Printed Robert M Thomas Phone 512-577-9103 Date 11/27/13

## **GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT**

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

### **VARIANCE REQUIREMENTS:**

#### **General Requirements:**

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

**SUBMITTAL REQUIREMENTS:** (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$388. All other zonings - \$688.)
- (4) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.
- (5) Austin Energy approval

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

**REQUIRED FINDINGS:** All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

#### **Reasonable Use:**

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

#### **Hardship:**

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the

placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.

- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

**Area Character:**

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

**NOTE:** Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

**Board of Adjustment Staff:**

**Susan Walker, Planner  
974-2202**

**Diana Ramirez, Administrative Specialist, Board Secretary  
974-2241**

**Fax #974-6536**

**Planning and Development Review Department  
One Texas Center  
505 Barton Springs Road, 2<sup>nd</sup> Floor**

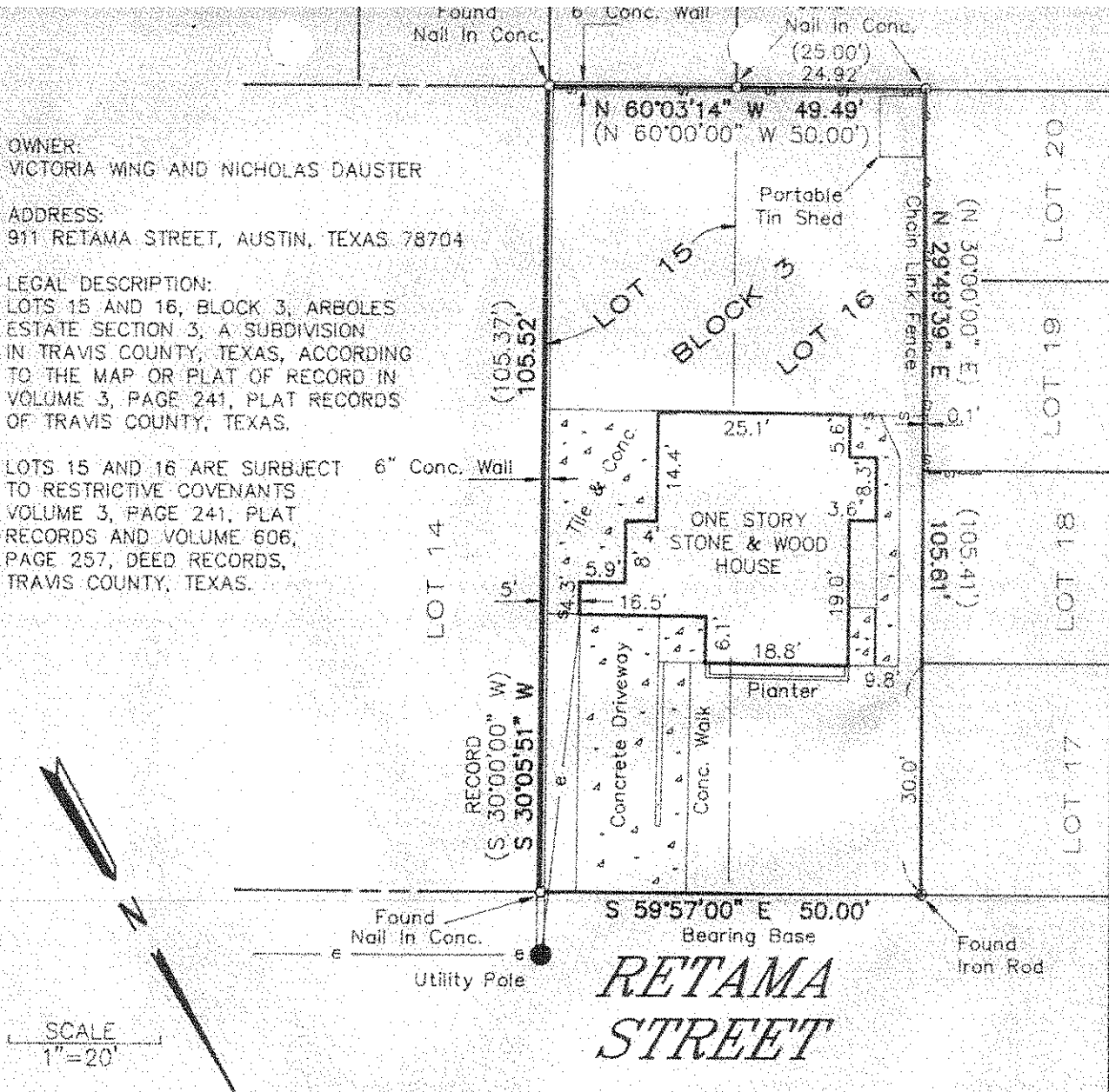
**Mailing Address:  
P. O. Box 1088  
Austin, TX 78767-1088**

OWNER:  
VICTORIA WING AND NICHOLAS DAUSTER

ADDRESS:  
911 RETAMA STREET, AUSTIN, TEXAS 78704

LEGAL DESCRIPTION:  
LOTS 15 AND 16, BLOCK 3, ARBOLES  
ESTATE SECTION 3, A SUBDIVISION  
IN TRAVIS COUNTY, TEXAS, ACCORDING  
TO THE MAP OR PLAT OF RECORD IN  
VOLUME 3, PAGE 241, PLAT RECORDS  
OF TRAVIS COUNTY, TEXAS.

LOTS 15 AND 16 ARE SUBJECT  
TO RESTRICTIVE COVENANTS  
VOLUME 3, PAGE 241, PLAT  
RECORDS AND VOLUME 606,  
PAGE 257, DEED RECORDS,  
TRAVIS COUNTY, TEXAS.



State of Texas:  
County of Travis:

"TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISES  
SURVEYED AND TO TEXAS PROFESSIONAL TITLE, INC. AND  
STEWART TITLE GUARANTY COMPANY AS PER GF NO. C 218042\*1."

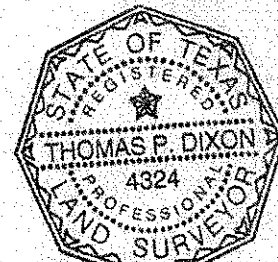
The undersigned does hereby certify that this survey was this day made on  
the property legally described hereon and is correct, and that there are no  
discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments,  
overlapping of improvements except as shown hereon, and that said property  
has access to and from a dedicated roadway, except as shown hereon.

Dated this 24TH day of APRIL 1997

And I certify that the property shown hereon IS NOT within a special flood  
hazard area as identified by the Federal Insurance Adm. Department of HUD Flood  
hazard boundary map revised as per Map Number: 48453C0205 E

Zone: X Dated: 6/16/93

Thomas P. Dixon R.P.L.S. 4324



# Legend

- ⊙ 1/2" Iron Rod Found
  - ◇ Capped Iron Rod Found as Noted
  - ⊙ Calculated Point
  - ▲ PK Nail Found
- (Record Bearing and Distance)

SCALE 1" = 20'

## AREA TABLE

land area: 7,890 sq. ft.

house footprint, shed concrete porches,  
A/C pads, and steps: 2,460 sq. ft.

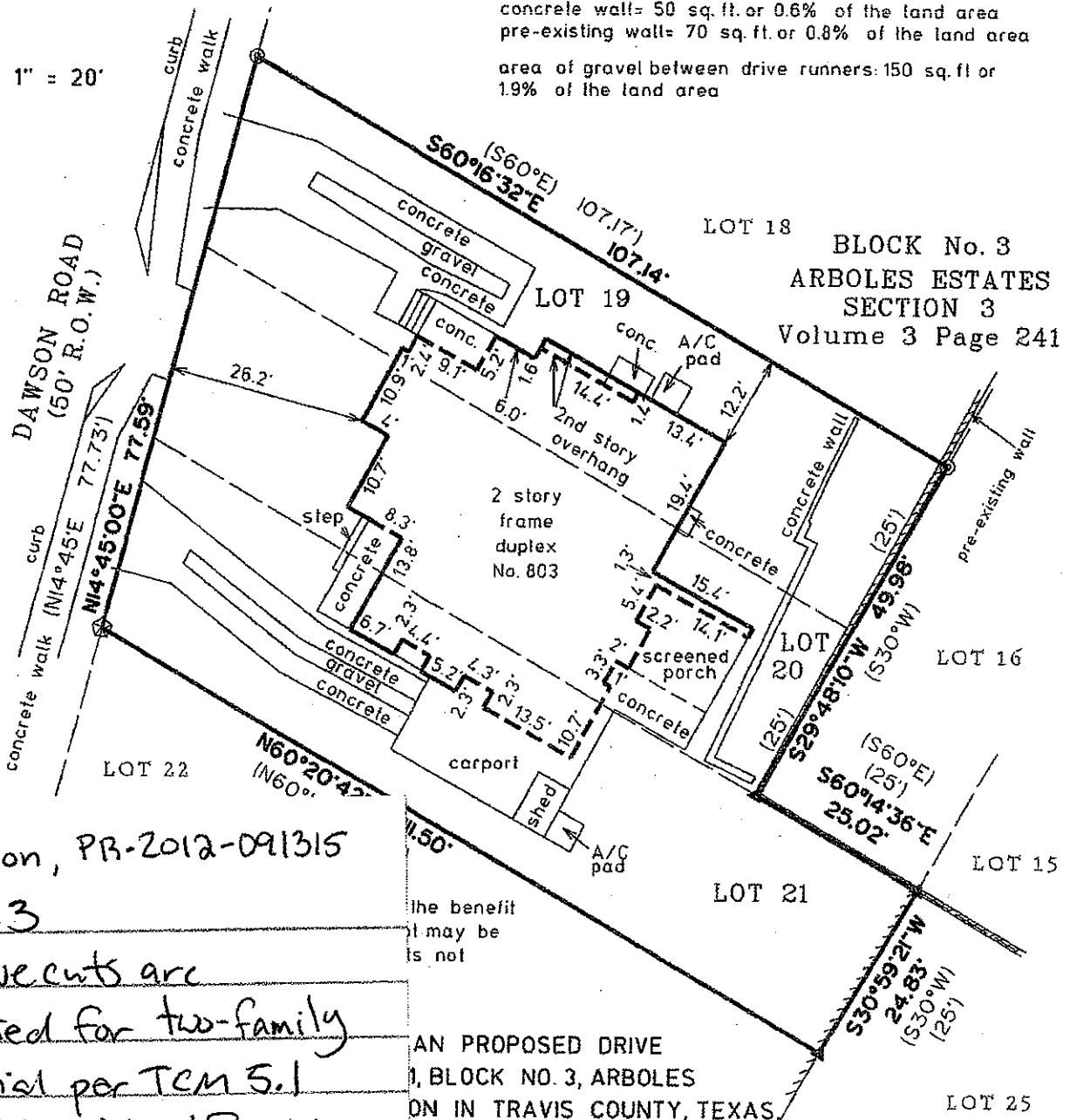
concrete drive/drive runners/proposed drive: 670 sq. ft.

The above improvements comprise 39.7% of the land area.

concrete wall= 50 sq. ft. or 0.6% of the land area

pre-existing wall= 70 sq. ft. or 0.8% of the land area

area of gravel between drive runners: 150 sq. ft. or  
1.9% of the land area



803 Dawson, PR-2012-091315

5-20-2013

① Two drive cuts are permitted for two-family residential per TCM 5.1

② Gravel ribbon identified in drives above will be considered pervious per memo dated 2-16-2010. Bibbons can be parked on. ③ Bibbons of concrete should be 3' wide.

Alhitcher, DAC  
974 3443

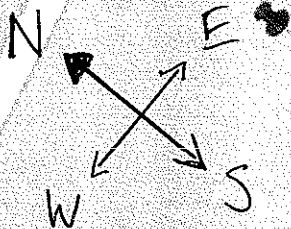
the benefit  
may be  
is not

AN PROPOSED DRIVE  
BLOCK NO. 3, ARBOLES  
ON IN TRAVIS COUNTY, TEXAS.  
T THEREOF RECORDED  
PLAT RECORDS OF TRAVIS

HOLT CARSON, INC.  
1904 FORTVIEW ROAD  
AUSTIN, TX 78704

Surveyor No. 5850

(512) 442-0990 C 881098



905

905

502

504

516

515

EXISTING FENCE &  
RETAINING WALL

522

524

520

510



# Eric and Aleshia Bonilla

803 Dawson Road • Austin, TX 78704 • Phone: 512-921-2276 • E-Mail: Aleshia.Bonilla@gmail.com

Date: November 27, 2013

Board of Adjustment  
Planning and Development Review Department  
P. O. Box 1088  
Austin, TX 78767-1088

Dear Board of Adjustment Staff:

Our neighbors, Robert and Aylin Thomas at 911 Retama St., Austin, TX 78704, have applied for an exemption to existing code regulations requesting to erect a fence to replace the existing fence between their property and ours (803 Dawson Road, Austin, TX 78704). Currently, the existing retaining wall (approximately 6 feet tall), which separates our property from theirs is failing and must be replaced. Atop the existing retaining wall is a 4 foot fence, which must also be replaced as a result of the removal and rebuilding of the failing wall.

The elevation difference between our property and that of the Thomas's is the reason that an exemption to existing regulations is necessary in order to erect a new fence. Through our discussions with Robert and Aylin Thomas, we jointly agreed that we would like to erect an 8-foot privacy fence between our properties as a replacement to the existing fence. The new fence, if approved by the Board of Adjustment, will be erected on the new retaining wall (as the existing fence currently lies on the wall today), which is located on the property line separating our adjacent properties. Building the 8-foot fence will not obstruct the view of other neighbors and will serve as a privacy fence between our properties.

Our intent in writing this letter is to express our support in erecting the fence and to notify you that we are in mutual agreement with this request. If additional information is needed, you may contact us at 512-921-2276.

We appreciate your consideration and look forward to your decision.

Sincerely,

  
Eric and Aleshia Bonilla

# Robert and Aylin Thomas

911 Retama Street • Austin, TX 78704 • Phone: 512-577-9103 • E-Mail: matt.thomas@utexas.edu

Date: November 27, 2013

Board of Adjustment  
Planning and Development Review Department  
P. O. Box 1088  
Austin, TX 78767-1088

Dear Board of Adjustment Staff:


We have applied for an exemption to existing code regulations, requesting to erect a fence to replace the existing fence between our property and that of our neighbors Eric and Aleshia Bonilla at 803 Dawson Road, Austin, TX 78704. Currently, the existing retaining wall (approximately 6 feet tall), which separates our property from theirs is failing and must be replaced. Atop the existing retaining wall is a 4 foot fence, which must also be replaced as a result of the removal and rebuilding of the failing wall.

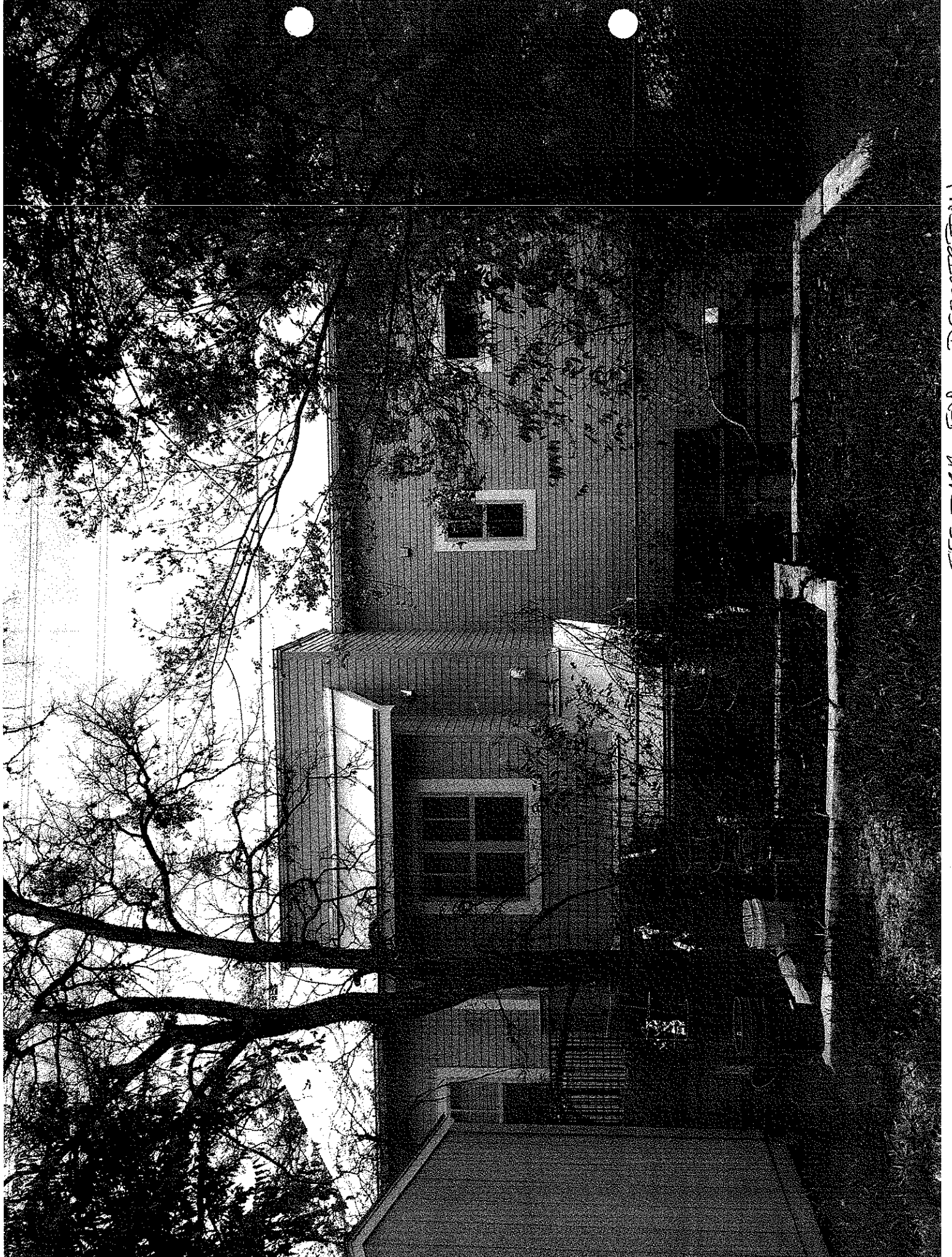
The elevation difference between the two properties is the reason that an exemption to existing regulations is necessary in order to erect a new fence. Through our discussions with Eric and Aleshia Bonilla, we jointly agreed that we would like to erect an 8-foot privacy fence between our properties as a replacement to the existing fence. The new fence, if approved by the Board of Adjustment, will be erected on the new retaining wall (as the existing fence currently lies on the wall today), which is located on the property line separating our adjacent properties. Building the 8-foot fence will not obstruct the view of other neighbors and will serve as a privacy fence between our properties.

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We appreciate your consideration and look forward to your decision.

Sincerely,

  
Robert and Aylin Thomas



SEE BACK FOR DESCRIPTION



SEE BACK FOR DESCRIPTION





SEE BACK FOR DESCRIPTION