

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

CASE # C15-2010-0087
ROW # 10465295

CITY OF AUSTIN TP-0425182247
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: 8735 Birmingham Drive

LEGAL DESCRIPTION: Subdivision - Buckingham Estates Phase 3 Section 5

Lot(s) 47 Block 0 Outlot _____ Division _____

I/We William F. & Christi A. Johnson on behalf of
myself/ourselves as authorized agent for

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_____ affirm that on July 1,
2010,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

Screened in Patio Cover on West side of residence _____ 3' from
_____ side p.l.

in a SF-2 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:

Access to backyard is on side of residence and is also the location of the original patio and patio cover. Oatio cover is now built 4ft into the 5ft side yard easement access.

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HARDSHIP:

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

Back side of residence is all bedrooms making access to backyard and a patio area less than desirable. Access to rear of house is thru the west side of the residence—. West side of the house has 3 windows and a patio door which need shade to keep utility usage down.

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

Most residences have an access directly thru the back of the residence and common living areas.

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:

Distance between adjacent residence and is 9ft and our east side between the residence and lot line is 7.5 ft which will allow for any utility access as needed

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without difficulty.

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:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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

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

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 _____ 8735
Birmingham Drive _____

City, Austin State Tx & Zip 78748

Printed William F. Johnson Phone 512-280-6839
Date 7/1/10

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 8735 Birmingham Drive

City, Austin State Tx & Zip 78748

Printed William F. Johnson Phone 512-280-6839
Date 7/1/10

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:

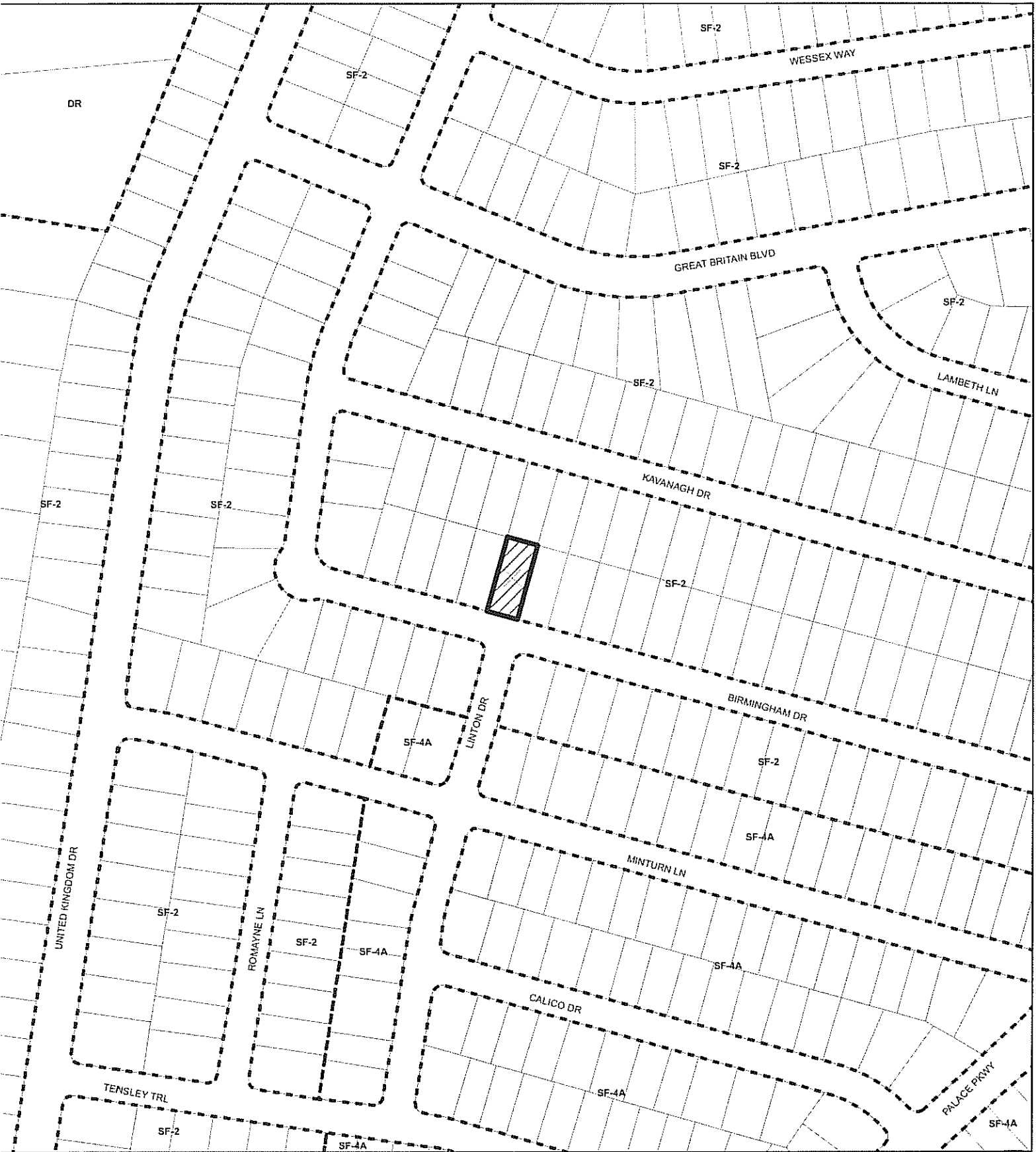
General Requirements:

- 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) A tax plat with subject property clearly marked indicating property within a 500-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9438).
- (4) (3) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)



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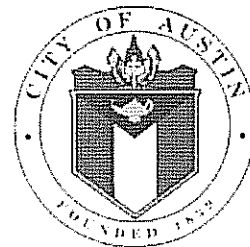


BOARD OF ADJUSTMENTS

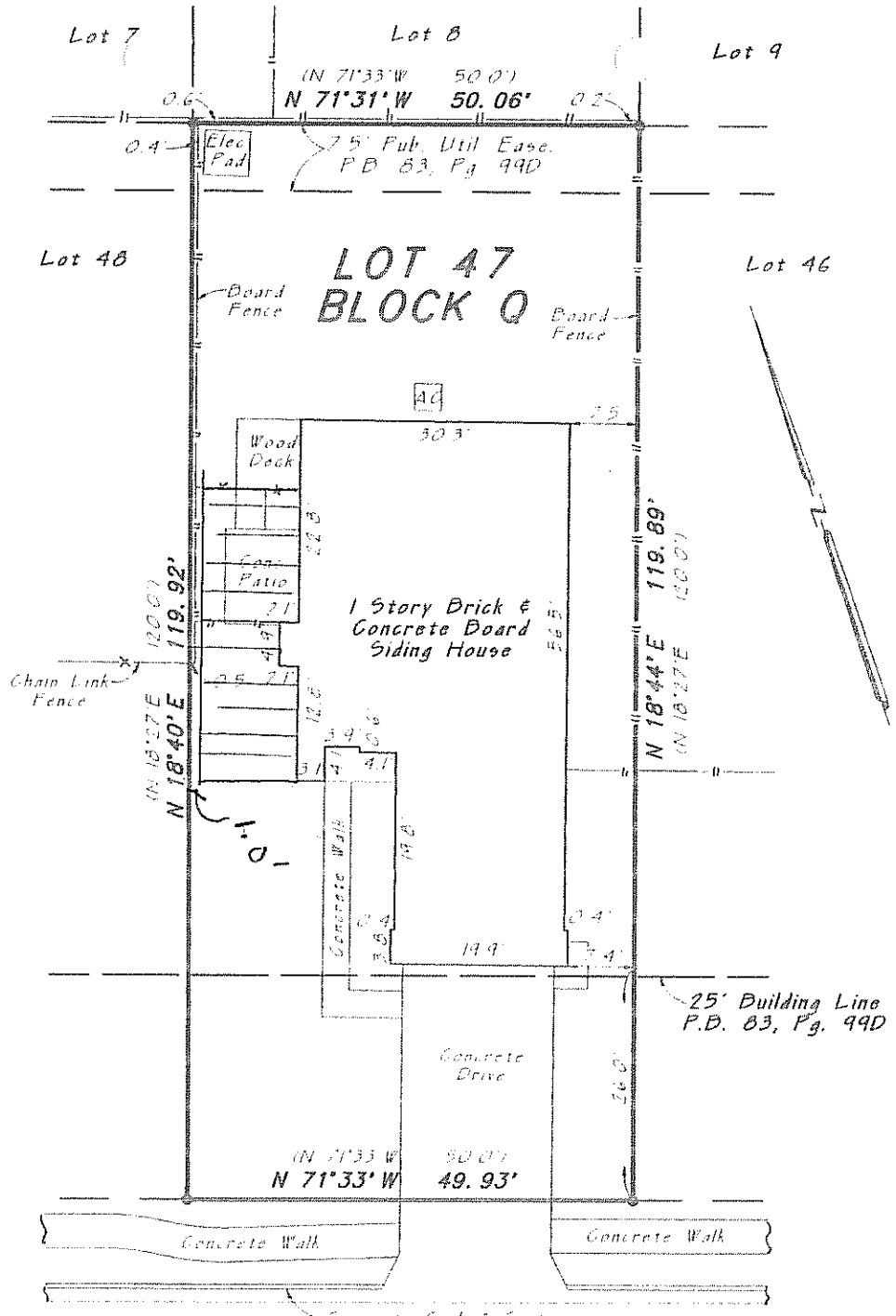
ZONING CASE#: C15-2010-0087
 LOCATION: 8735 BIRMINGHAM DR
 GRID: F14
 MANAGER: SUSAN WALKER



-  SUBJECT TRACT
-  ZONING BOUNDARY

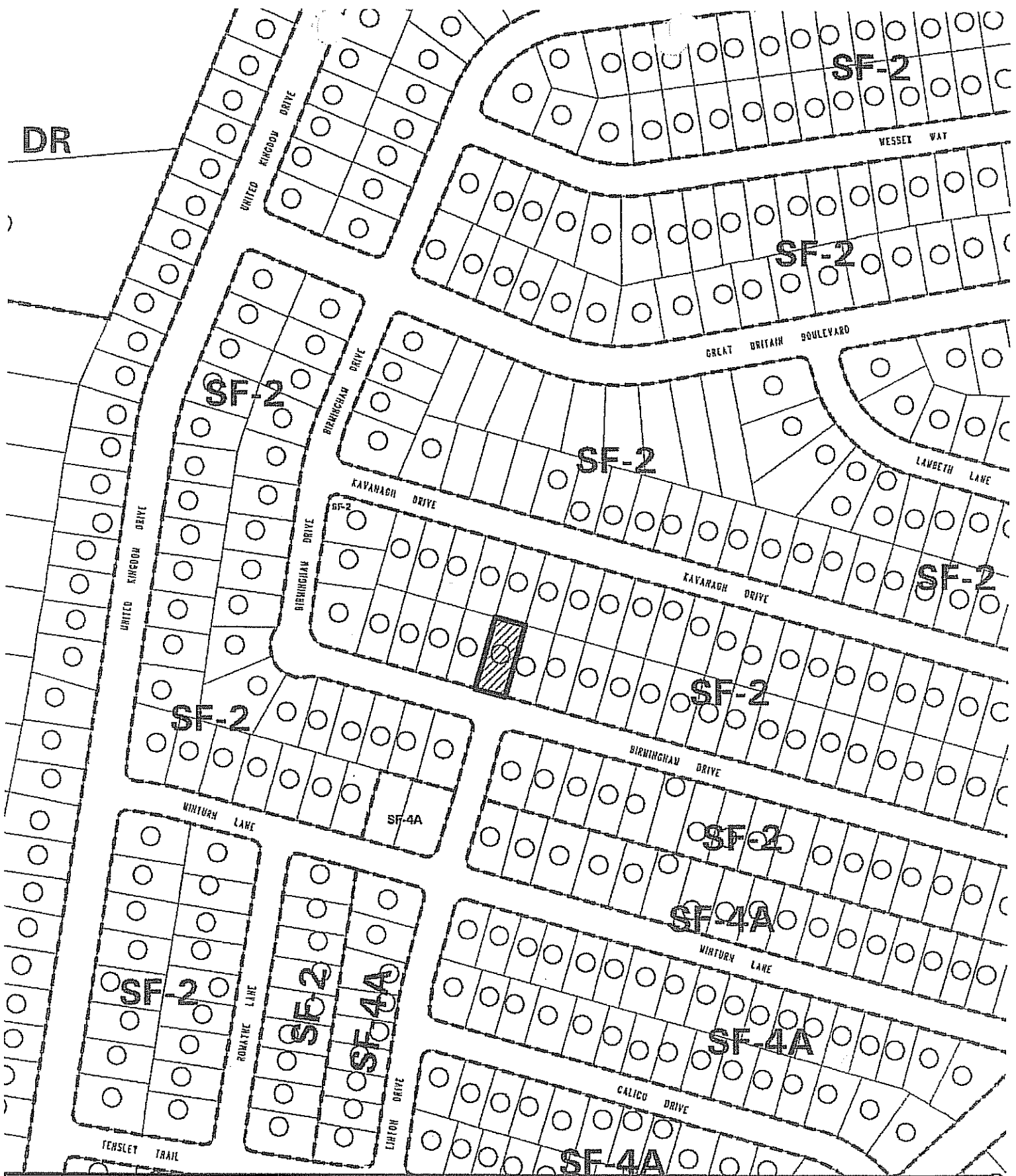



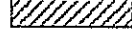
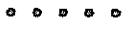

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



BIRMINGHAM DRIVE
50' R.O.W.--Asphalt Pavement

EXISTING



 1" = 200'	SUBJECT TRACT 	BOARD OF ADJUSTMENTS		CITY GRID REFERENCE NUMBER F14	
	PENDING CASE 	CASE #: C15-05-112			
	ZONING BOUNDARY 	ADDRESS: 8735 BIRMINGHAM DR			DATE: 05-07
	CASE MGR: S. WALKER	SUBJECT AREA (acres): N/A			INTLS: SM



City of Austin
Code Compliance Department
Summary of Complaint CC-2005-020899-ITR

COMPLAINT INFORMATION

Case Status: Closed

Address: 8735 BIRMINGHAM DRIVE

Legal Description: LOT 47 BLK Q
 BUCKINGHAM ESTATES PHS 3
 SEC 5

Property Owner(s):
 - Owner

Complaint Date: April 11, 2005

Complaint: A citizen has complained that a patio cover added to the side of 8735 BIRMINGHAM DR. is encroaching into the building setback line. The patio cover appears to be encroaching.

Complainant:
 Anonymous

INSPECTION INFORMATION

Investigator Assignment(s)
 David Dumble assigned on April 11, 2005

Case Log

DATE	STAFF NAME	ACTION TAKEN
04/12/2005	David Dumble	Information Update Conducted An Initial Inspection of the Property. Inspector's Comments: "patio built within 5' side set back line."
04/19/2005	David Dumble	Send CV Notice Sent Notice of Violation to the Owner
04/19/2005	David Dumble	Administrative Support Action Inserts a tracking notice comment for date executed. Inspector's Comments: "Certified tracking notice has been delivered."
05/11/2005	David Dumble	Information Update Information Update and research results. Inspector's Comments: "Extension requested, letter being sent."
05/11/2005	Paul Tomasovic	Information Update Information Update and research results. Inspector's Comments: "Gave owner one week extension to submit his variance application."
05/16/2005	David Dumble	Information Update Information Update and research results. Inspector's Comments: "Letter for extension received."

05/26/2005	David Dumble	Information Update
Information Update and research results. Inspector's Comments: "Cited this property under wrong ordinance, sending new letter."		
05/26/2005	David Dumble	Send CV Notice
Sent Notice of Violation to the Owner. Inspector's Comments: "new notice sent under site development."		
05/26/2005	David Dumble	Insp / Violation(s) Found
MIGRATED		
07/11/2005	David Dumble	Information Update
Information Update and research results. Inspector's Comments: "Bill Johnson, the owner of the property called today, to inform me that he has a meetin with the board Of Adjustment on august 8th."		
08/09/2005	David Dumble	Information Update
Information Update and research results. Inspector's Comments: "Bill Johynson called and the variance has been granted with two conditions: gutters and a 1' clearance to side property line."		
09/08/2005	David Dumble	Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Talked to owner who is complying with instructions to be in complianciee., adding gutter, etc.,and he has attained a variance from the city"		
09/29/2005	David Dumble	Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Work in progress."		
10/03/2005	David Dumble	Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Variance granted,and all conditions met."		
10/03/2005	David Dumble	Closed due to Voluntary Compliance
Case closed for voluntary compliance. Inspector's Comments: "Variance granted, and all conditions met,close."		

VIOLATIONS

Land Use

Code Section: Zoning Violations

Violation: Violation data migrated from Inspect Track. Data must be converted to AMANDA deficiency prior to closing case or forwarding for legal review. - ACCESSORY USES FOR A PRINCIPAL RESIDENTIAL USE(section 25-2-893) (Structure: Premises) - Patio built within 5' side yard set back.

Date Observed: 10/03/2005 Status: Cleared

Code Section: Zoning Violations

Violation: Violation data migrated from Inspect Track. Data must be converted to AMANDA deficiency prior to closing case or forwarding for legal review. - SITE DEVELOPMENT(section 25-2-492) (Structure: Premises) - patio built within 5' set back of side property line.

Date Observed: 10/03/2005 Status: Cleared

Structure Maintenance

NOTICES

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City of Austin

Founded By Congress, Republic of Texas 1839

Code Compliance Department

P.O. Box 1088, Austin, Texas 78767 - 1088

May 12, 2010

NOTICE OF VIOLATION

via Certified Mail # 7005 3110 0002 4206 3642

William F & Christi Johnson
8735 Birmingham Dr
Austin Texas 78748-6454

RE: 8735 BIRMINGHAM DR 78748

Legally described as LOT 47 BLK Q BUCKINGHAM ESTATES PHS 3 SEC 5

Zoned as SF-2

Parcel Number 0425182247

Dear William F & Christi Johnson:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Building Official. Also, it is a misdemeanor to rent this property if the code violation(s) on this property pose a danger to the health, safety and welfare of the tenants.

If you have any questions, please contact me by telephone at (512)974-2309 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en (512)974-2309 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the real property records of Travis County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.

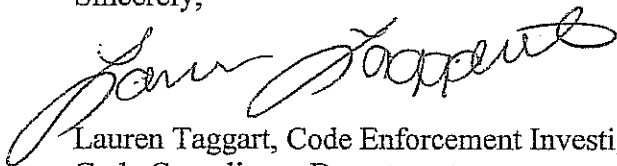
If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,



Lauren Taggart, Code Enforcement Investigator
Code Compliance Department
Case CV-2010-037184

INVESTIGATION REPORT

Investigator: Lauren Taggart
Case: CV-2010-037184
Address: 8735 BIRMINGHAM DR 78748
Zoned as SF-2

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the **Required Remedy Summary** will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 974-2380. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

LAND USE

Code Section: Openness of Required Yards (§25-2-513)

Description of Violation: The enclosed patio encroaches into required 5 feet side yard setback.

Date Observed: May 5, 2010

Status: Not Cleared

Required Remedy: Obtain variance required to allow set back encroachment or remove structure from set back.

Code Section: Building Permit Requirement (§25-12-241 [2000 IRC R105.1])

Description of Violation: Residential construction performed without required permit for attached / enclosed patio, constructed with out required permits and inspections. Also added electrical.

Date Observed: May 5, 2010

Status: Not Cleared

Required Remedy: Please obtain all required permits for the attached / enclosed patio.

Required Remedy Summary

Electrical Permit Required

Building Permit Required

Apply for a Variance in 7 days

Obtain a Permit in 7 days

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

No appeal is available for land use issues. However, a person may appeal a Stop Work Order to the City of Austin's Building Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

An appeal may be delivered in person to the Office of the Director of the Planning and Development Review Department located at 505 Barton Springs Road or mailed to:

Building Official
Planning and Development Review Department
P.O. Box 1088
Austin, Texas 78767



City of Austin
Code Compliance Department
Summary of Complaint CC-2010-036230

COMPLAINT INFORMATION

Case Status: Active

Address: 8735 BIRMINGHAM DR 78748

Legal Description: LOT 47 BLK Q BUCKINGHAM ESTATES PHS 3 SEC 5

Property Owner(s):
 WILLIAM F & CHRISTI JOHNSON - Owner
 8735 BIRMINGHAM DR AUSTIN TEXAS 78748-6454

Complaint Date: April 27, 2010

Complaint: set back violations

Complainant:
 Anonymous

INSPECTION INFORMATION

Investigator Assignment(s)

Lauren Taggart assigned on April 27, 2010

Case Log

DATE	STAFF NAME	ACTION TAKEN
04/29/2010	Lauren Taggart	Investigation/Research
On April 29,2010 I responded to a complaint for a set back violation. At the time of my inspection I was able to make contact with the owner of the property Bill Johnson 280-6839 Home or 563-0009 Cell. Mr. Johnson was pleased to show me the structure that was in question. At the time of my inspection I observed a large enclosed attached patio to the main structure located on the left side of the residence. Mr. Johnson advised that he was given a variance for this structure. The structure is built all the way to the fence and property line. Photos were taken at the time of the inspection. I have added the photos to the case file. I have spoken with my supervisor concerning this matter. At this time we are waiting for a response from the building officials located downtown.		
04/29/2010	Lauren Taggart	Insp / Violation(s) Found
Violations found		
05/05/2010	Lauren Taggart	Send CV Notice
05/16/2010	Lauren Taggart	Owner Contacted
On May 16,2010 I received a call informing me that there is a variance for the access structure. I will get with my supervisor concerning this case.		
05/17/2010	Lauren Taggart	Owner Contacted
Kathleen Buchanan City Assistance Attorney for Code Compliance Department and the owner Christi Johnson spoke concerning this issue of the illegal structure located in the side yard of the property. I have been advised by		

Kathleen to give the home owner two weeks to comply before taking further legal action.

05/17/2010 Lauren Taggart

Information Update

On May 17, 2010 I was contacted by Lee Lawson 974-6341 from Environmental Inspector Supervisor for Plan and Review Department contacted me concerning the property located at 8735 Birmingham Drive. Ms. Lawson advised me that he was a neighbor to Mr. or Mrs. Johnson that lived at 8735 Birmingham Drive. That he was approached by Mr. or Mrs. Jackson after returning from out of town concerning the issues that the city has in question concerning Mr. & Mrs. Johnson property. Ms. Lawson requested information as to why five years ago when this property was in code violation and the inspector that had the case did not inform Mr. or Mrs. Johnson at that time, that a building permit was required and why did Mr. Tomasovic allow a week extension if the owners of the property were not following the correct path to be completely in compliance? Ms. Lawson replied to me that if the inspector would have informed Mr. or Mrs. Johnson at that time to get a building permit they would have with no problems. Ms. Lawson also told me that the structure was not enclosed, but just covered. I advised Ms. Lawson that the structure was enclosed and that there was electrical wiring for this structure. Ms. Lawson requested information on why there was a variance that was issued and why was the variance not good at this time. I advised Ms. Lawson that the variance was expired and that there was never a building permit ever pulled for the enclosed porch. Ms. Lawson also made the comment to me that "I know that you are not going to take responsibility for what happen in 2005". My reply "No I am not going to take responsibility for some thing that occurred in 2005 when my employment did not start until 2008. I gave him my supervisors information and Ron Potts information as well as Kathleen Buchanan contact information.

05/18/2010 Lauren Taggart

Extension Requested

On May 18, 2010 I was received a variance mail and a email requesting to contact the owner Christi regarding a extension for obtaining and or applying for the variance.

05/18/2010 Lauren Taggart

Owner Contacted

On May 18, 2010 I called the property owner back pertaining to the extension request. I have spoke with my supervisor and have permission to give the owner a two weeks extension. I called the owner and advised that there has been a two week extension for applying and or obtaining the variance.

VIOLATIONS

Land Use

Code Section: Openness of Required Yards (§25-2-513)

Violation: The enclosed patio encroaches into required 5 feet side yard setback.

Date Observed: 05/05/2010 Status: Not Cleared

Code Section: Building Permit Requirement (§25-12-241 [2000 IRC R105.1])

Violation: Residential construction performed without required permit for attached / enclosed patio, constructed with out required permits and inspections. Also added electrical.

Date Observed: 05/05/2010 Status: Not Cleared

Structure Maintenance

Code Section: Residential

Violation: Residential construction performed without required permit for attached / enclosed patio, constructed with out required permits and inspections.

Date Observed: 05/05/2010 Status: Invalid

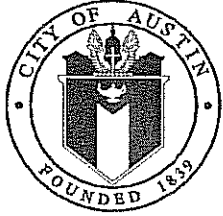
NOTICES

Notice of Violation to WILLIAM F & CHRISTI JOHNSON (Owner)

Mail sent certified 7005 3110 0002 4206 3642 on Wednesday, May 5, 2010

Mail sent regular on Wednesday, May 5, 2010

Received / signed by Christi Johnson on Friday, May 14, 2010



City of Austin

Founded By Congress, Republic of Texas 1839

Code Compliance Department

P.O. Box 1088, Austin, Texas 78767 - 1088

May 12, 2010

NOTICE OF VIOLATION

via Certified Mail # 7005 3110 0002 4206 3642

William F & Christi Johnson
8735 Birmingham Dr
Austin Texas 78748-6454

RE: 8735 BIRMINGHAM DR 78748

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Zoned as SF-2

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An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

**City of Austin
Code Compliance Department
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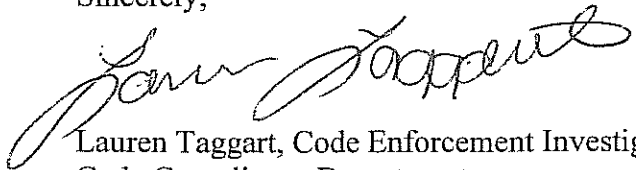
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Sincerely,



Lauren Taggart, Code Enforcement Investigator
Code Compliance Department
Case CV-2010-037184

INVESTIGATION REPORT

Investigator: Lauren Taggart
Case: CV-2010-037184
Address: 8735 BIRMINGHAM DR 78748
Zoned as SF-2

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LAND USE

Code Section: Openness of Required Yards (§25-2-513)
Description of Violation: The enclosed patio encroaches into required 5 feet side yard setback.
Date Observed: May 5, 2010 **Status:** Not Cleared
Required Remedy: Obtain variance required to allow set back encroachment or remove structure from set back.

Code Section: Building Permit Requirement (§25-12-241 [2000 IRC R105.1])
Description of Violation: Residential construction performed without required permit for attached / enclosed patio, constructed with out required permits and inspections. Also added electrical.
Date Observed: May 5, 2010 **Status:** Not Cleared
Required Remedy: Please obtain all required permits for the attached / enclosed patio.

Required Remedy Summary
 Electrical Permit Required
 Building Permit Required

Apply for a Variance in 7 days
 Obtain a Permit in 7 days

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