

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).

ROW

CASE # CV5-2014-0046  
ROW# 111039818  
TAX ROLL 0266000116

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: 12206 West Cow Path (12238 in GIS)

LEGAL DESCRIPTION: Subdivision – Angus Valley No. 8

Lot(s) 5 Block C Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Daphne Hoffacker on behalf of myself/ourselves as authorized agent for

Kurt and Daphne Hoffacker affirm that

on February 21, 2014, hereby apply for a hearing before the Board of Adjustment

for consideration to:

(check appropriate items below)

☐ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☒ MAINTAIN

Two sheds that were erected a few inches inside the 5 foot side-yard easement (not a utility easement) on the property.

(Special exception)

in a SF-1 residential  
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.



## SPECIAL EXCEPTION INSPECTION



<b>Address:</b>	12206 West Cow Path
<b>Permit Number:</b>	2014-021951 & 2014-021959
<b>Property Owner Requesting Special Exception:</b>	Daphne Hoffacker

**Special Exception Requested:**

Two storage buildings located opposite of each other encroaching into both side yard lines

**Date Structure was originally constructed:** dated via GIS 1997

<b>Date of Inspection:</b>	03-19-2014
<b>Building Official or designated representative</b>	Tony Hernandez
<b>X</b>	The granting of the variances requested will <u>Not</u> result in any hazard to the life, health or public safety for either the property for which the variance is requested or to an adjoining public or private property
	The granting of the variances request will result in a hazard to the life, health or public safety of the either the property for which the variance is requested or to an adjoining public or private property. The following hazards related to the variance request were noted in this inspection:  1.

§ 25-2-476 SPECIAL EXCEPTIONS.

(A) The Board of Adjustment shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning) if the board finds that the special exception meets the requirements of this section.

(B) The Board shall grant a special exception under Subsection (A) of this section if:

- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
- (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
- (3) the Board finds that:
  - (a) the violation has existed for:
    - (i) at least 25 years; or
    - (ii) at least 10 years, if the application for a special exception is submitted on or before June 6, 2016;
  - (b) the use is a permitted use or a nonconforming use;
  - (c) the structure does not share a lot with more than one other primary residence; and
  - (d) granting a special exception would not:
    - (i) alter the character of the area;
    - (ii) impair the use of adjacent property that is developed in compliance with city code; or
    - (iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

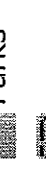
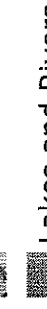
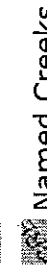
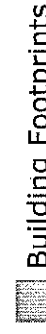
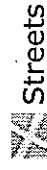
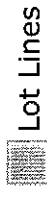
(C) A special exception granted under this section:

- (1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;
  - (2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and
  - (3) may not authorize a remodel or addition to the existing structure, except to the extent required by the building official to meet minimum life and safety requirements.
- (D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (Noncomplying Structures).

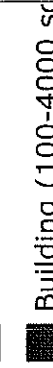
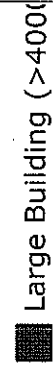
*Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.*

CITY OF AUSTIN DEVELOPMENT WEB MAP

Legend



Building Footprints Year 1999



1997 Aerial



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 THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.

**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:

The two sheds in question have been in place for decades, built long before a fence that currently runs along the property line. At the time, the property owners made a best-guess estimate about the location of the property line without the benefit of a fence to guide them and missed by a few inches. Both sheds are almost entirely outside of the 5-foot easement area except for a uniform 10-inch overlap on the southern shed and only 5 inches in one corner (the other corner is entirely outside the easement) on the northern shed. Neither shed infringes on a utility easement or the actual property of the neighbors. In addition, the neighbors on both sides have signed letters stating they are aware the sheds currently infringe a few inches into the easement between our yards and support a variance that would allow the sheds to remain intact and in place.

SPECIAL EXCEPTIONS

**HARDSHIP:**

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

The property was developed before it was part of the City of Austin and before there were nearby fences clearly marking the property lines. One shed was framed onto a concrete pad decades ago and could not be moved without damage to the structure. It would have to be completely removed. The other shed is also very old and, although there's some chance it would survive being moved, it would be cost-prohibitive to attempt it. It, too, is built onto a concrete slab, though the actual structure is made of prefabricated plastic.

SPECIAL EXCEPTIONS

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

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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 two sheds have been there for years and removing them would alter the character of the property and the neighborhood, where old sheds and barns are common.

SPECIAL EXCEPTIONS

**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:

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

**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 [Signature] Mail Address 12304 Audane Dr.

City, State & Zip Austin TX 78727

Printed Daphne Hoffacker Phone 512-698-2240 Date 02/21/2014

**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 [Signature] Mail Address 12304 Audane Drive


City, State & Zip Austin TX 78727


Printed Kurt and Daphne Hoffacker Phone 512-219-1024 Date 02/21/2014


# CITY OF AUSTIN DEVELOPMENT WEB MAP


1993


## Legend

 Lot Lines

 Streets

 Building Footprints

 Named Creeks

 Lakes and Rivers

 Parks

 County

— Building Footprints Year




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# CITY OF AUSTIN DEVELOPMENT WEB MAP


1993


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February 20, 2014

City of Austin  
Planning and Development Review Department  
One Texas Center  
505 Barton Springs Road, 2nd Floor

Re: Variance for 12206 West Cow Path

To whom it may concern,

I, Eva Lou Adams, live at 12204 West Cow Path, next door to Kurt and Daphne Hoffacker at 12206 West Cow Path, Austin, TX 78727.

I understand there is a shed on the Hoffacker property that is 10 inches inside the 5 foot easement space inside their property line. I certify that I do not have a problem with the location of their shed, it does not impact the character of the area or my use of my property, and I support a variance that allows them to keep the shed in its current location.

Sincerely,

Eva Lou Adams Feb. 20, 2014

Eva Lou Adams

Owner, 12204 West Cow Path  
Austin, Texas 78727

February 20, 2014

City of Austin  
Planning and Development Review Department  
One Texas Center  
505 Barton Springs Road, 2nd Floor

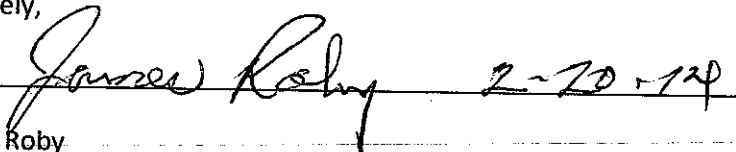
Re: Variance request for 12206 West Cow Path

To whom it may concern,

I, James Roby, live at 12300 West Cow Path, next door to Kurt and Daphne Hoffacker at 12206 West Cow Path, Austin, TX 78727.

I understand there is a shed on the Hoffacker property that is 5 inches inside the 5 foot easement space inside their property line at one corner. I certify that I do not have a problem with the location of their shed, it does not impact the character of the area or my use of my property, and I support a variance that allows them to keep the shed in its current location.

Sincerely,

 2-20-14

James Roby

Owner, 12300 West Cow Path  
Austin, Texas 78727

www.exacta365.com  
P (281)763-7766 • F (281)763-7767  
250 West Oak Loop Cedar Creek, Texas 78612

PROPERTY ADDRESS: 12206 WEST COW PATH AUSTIN, TEXAS 78727

SURVEY NUMBER: 1310.0090

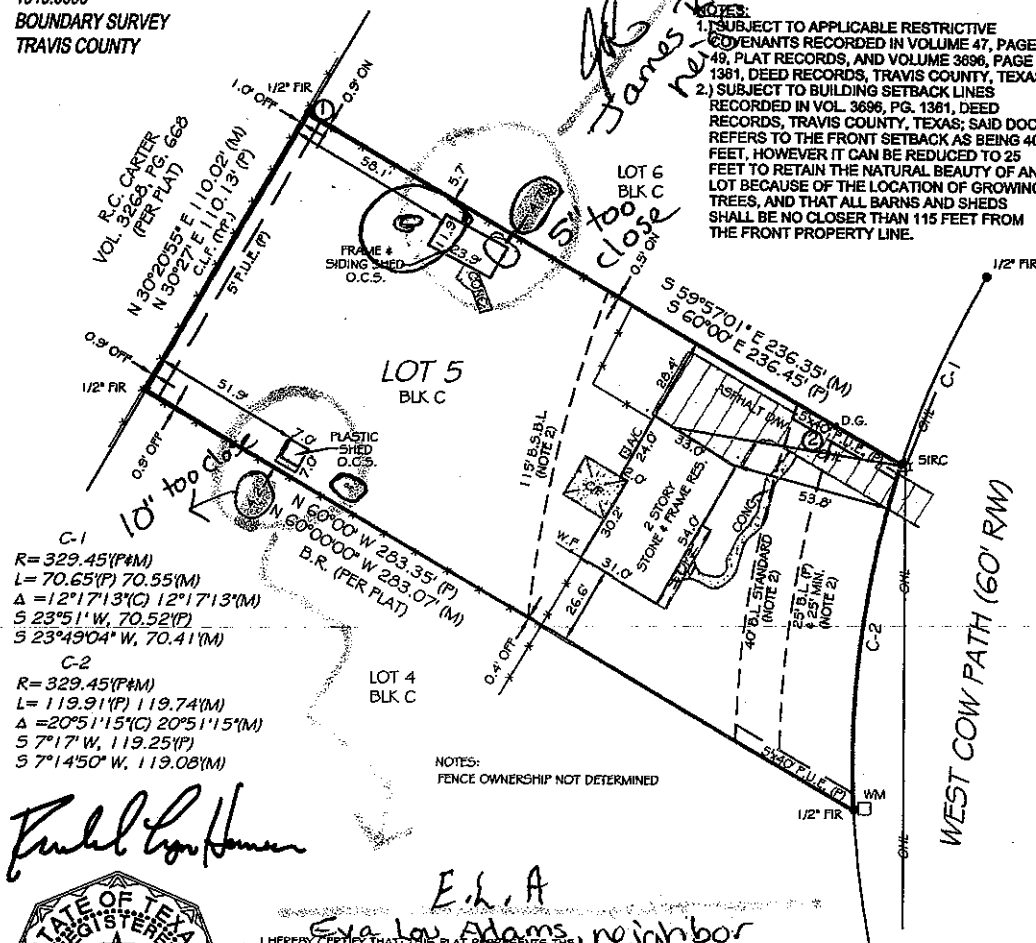
FIELD WORK DATE: 10/2/2013

REVISION DATE(S): (REV 0 10/3/2013)

1310.0090  
BOUNDARY SURVEY  
TRAVIS COUNTY

2.) SUBJECT TO APPLICABLE RESTRICTIVE COVENANTS RECORDED IN VOLUME 47, PAGE 49, PLAT RECORDS, AND VOLUME 3686, PAGE 1381, DEED RECORDS, TRAVIS COUNTY, TEXAS.

2.) SUBJECT TO BUILDING SETBACK LINES RECORDED IN VOL. 3686, PG. 1381, DEED RECORDS, TRAVIS COUNTY, TEXAS; SAID DOC. REFERS TO THE FRONT SETBACK AS BEING 40 FEET, HOWEVER IT CAN BE REDUCED TO 25 FEET TO RETAIN THE NATURAL BEAUTY OF ANY LOT BECAUSE OF THE LOCATION OF GROWING TREES, AND THAT ALL BARN AND SHEDS SHALL BE NO CLOSER THAN 115 FEET FROM THE FRONT PROPERTY LINE.



NOTES:  
FENCE OWNERSHIP NOT DETERMINED

Franklyn Horner



I HEREBY CERTIFY THAT: THIS PLAT REPRESENTS THE RESULTS OF A SURVEY MADE ON THE GROUND ON THE 2ND DAY OF OCTOBER, 2013; ALL EASEMENTS AND RIGHTS-OF-WAY SHOWN ON THE PLAT AND SET FORTH WITHIN THE TITLE COMMITMENT ISSUED BY CHICAGO TITLE INSURANCE COMPANY, GF NO. 1326266-KFO, EFFECTIVE SEPTEMBER 10, 2013, ARE SHOWN OR NOTED HEREON; THERE ARE NO VISIBLE ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS EXCEPT AS SHOWN HEREON; THE PROPERTY HAS ACCESS TO AND FROM A PUBLIC ROADWAY.



GRAPHIC SCALE (In Feet)  
1 inch = 50' ft.



Use of This Survey for Purposes other than Intended, Without Written Verification, will be at the User's Sole Risk and Without Liability to the Surveyor.  
Nothing herein shall be Construed to Give ANY Rights or Benefits to Anyone Other than those Certified.

**FLOOD INFORMATION:**

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X. THIS PROPERTY WAS FOUND IN TRAVIS COUNTY, COMMUNITY NUMBER 481026, DATED 09/28/08.

CLIENT NUMBER: 1326266-KFO

DATE: 10/3/2013

**BUYER:** Kurt D. Hoffacker

**SELLER:** REX ALBRECHT, DANIEL TRACY ALBRECHT F/K/A TRACY DANIEL ALBRECHT AND TARA ZINSMEYER

CERTIFIED TO: KURT D. HOFFACKER; INDEPENDENCE TITLE; CHICAGO  
TITLE INSURANCE COMPANY; ENVOY MORTGAGE,  
LTD

This is page 1 of 2 and is not valid without all pages.

### POINTS OF INTEREST

1. CHAIN LINK FENCE OVER 5' P.U.E. 2. ASPHALT DRIVEWAY OVER 5' X 40' P.U.E.

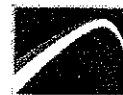


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Texas Survivors, Inc.

LR#10193731

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P (512)782-9398 • F (512)782-9399  
10 West Oak Loop Cedar Creek, Texas 78612

250 West Oak Loop Cedar Creek, Texas 78612

LOT 5, BLOCK "C", ANGUS VALLEY NUMBER 8, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 47, PAGE 45, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

THE BEARING REFERENCE OF NORTH 60 DEGREES 00 MINUTES WEST IS BASED ON THE SOUTHWESTERLY PROPERTY LINE OF LOT 5, BLOCK "C", ANGUS VALLEY NUMBER 8, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 47, PAGE 45, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

1. The Legal description used to perform this survey was supplied by others. This survey does not determine or imply ownership.
2. Due to varying construction standards, house dimensions are approximate.
3. This survey is exclusively for the use of the parties to whom it is certified. It is not transferable to additional institutions or subsequent owners.
4. This property subject to any and all recorded and unrecorded easements. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants or ownership title evidence.
5. Surveying Services performed by the Austin branch of Exacta Texas Surveyors, Inc - 250 West Oak Loop - Cedar Creek, TX - 78612
6. If there is a septic tank, well or drain field on this survey, the location of such items was showed to us by others and are not verified.
7. Any additions or deletions of this 2 page survey document are strictly prohibited. Use of this survey beyond the purpose of the transfer of title without written authorization of the signing surveyor is prohibited.
8. Any FEMA flood zone data contained on this survey if for informational purposes only. Research to obtain such data was performed at [www.fema.gov](http://www.fema.gov)
9. Dimensions are in feet and decimals thereof.
10. All pins marked as set are 5/8 diameter, 18" iron rebar.
11. This survey only shows improvements found above ground. Underground footings, utilities and encroachments are not located on this survey map.
12. The information contained on this survey has been performed exclusively, and is the sole responsibility, of Exacta Surveyors. Additional logos or references to third party firms are for informational purposes only.
13. Points of Interest (POI's) are selected above- ground improvements which may be in conflict with boundary, building setbacks or easement lines, as defined by the parameters of this survey. There may be additional POI's which are not shown, not called-out as POI's, or which are otherwise unknown to the surveyor. These POI's may not represent all items of interest to the viewer.
14. The information contained on this survey has been performed exclusively, and is the sole responsibility, of Exacta Surveyors. Additional logo or references to third party firms are for informational purposes only.
15. House measurements should not be used for new construction or planning. Measurements should be verified prior to such activity.

5400	SET GLEZ DISC
5501	SET DRIHL HOLE
51R	SET IRON ROD
55R2	SET IRON ROD & CAP
51D	SET NAIL
51D	SET NAIL & DISC
57Y	STORY
57.L	SURVEY THE LINE
57	SEWER VALVE
5W	SEAWALL
5.W.	SEAWALL
TEL	TELEPHONE FACILITIES
T.O.D.	TOP OF BANK
T.F.	TOP FLOOR
TJF	TECHNICAL
U.	UTILITY RIDER
W.C	WITNESS CORNER
W	WATER FILTER
W.F.	WOODEN FENCE
WV	WATER METEVALVE BOX
W.	WATER VALVE
V.F.	VENT FENCE
A.E.	ANCHOR OR ACCESS DASH
C.M.E.	CANAL MAINTENANCE ESMT.
C.P.E.	COUNTY UTILITY ESMT.
C.E.	CRASSAGE EASMENT
ESMT.	
I.E.F.E.	INFECTION/ESMT/ESMT
I.E.	IRIGATION EASMENT
I.E.	LIMITED ACCESS ESMT.
L.E.	LANDSCAPE BUTTER ESMT.
L.E.	LANDSCAPE ESMT.
L.E.	LAKE OR LANDSCAPE
M.E.	MAINTENANCE EASMENT
M.E.	MAINTENANCE EASMENT
P.U.E.	PUBLIC UTILITY EASMENT
R.O.E.	ROOF OVERHANG ESMT.
S.W.E.	SEAWALL EASMENT
S.W.E.	STORM WATER
W.C.E.	WATER CESS ESMT.
T.J.F.	TECHNOLOGICAL UTILITY ESM
U.E.	UTILITY EASMENT

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