

Special Exemption

CASE# C15-2015-0004  
ROW# 11260526  
TAX# 0219330701

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

(TCAD ✓)

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

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

STREET ADDRESS: 6701 Hillcroft

LEGAL DESCRIPTION: Subdivision - Colony Park Sec. 1, PH 3

Lot(s) 1 Block D Outlot - Division -

I/We Guadalupe Benitez on behalf of myself/ourselves as authorized agent for

Self affirm that on Nov. 21, 2014

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

(check appropriate items below and state what portion of the Land Development Code you are seeking a variance from)

☐ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☒ MAINTAIN

carport w/in front setback

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:

Special Exception

**HARDSHIP:**

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

Special Exception

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

Special Exception

**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:

Special Exception

**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:

NA

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:

NA

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

NA

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

NA

**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 Guadalupe M Benitez Mail Address \_\_\_\_\_

City, State & Zip 78724

Printed \_\_\_\_\_ Phone 512/6577715 Date 11-24-14

**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 Same Mail Address \_\_\_\_\_

City, State & Zip \_\_\_\_\_

Printed \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

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.

Colony Park Neighborhood Assoc.  
P.O. box 12891  
Austin, Texas 78711 – 2891

August 19, 2013

Code Compliance/Improper Carports

Director: Carl Smart  
1520 Rutherford Lane  
Austin, Texas 78754

Dear Mr. Smart,

It has been brought to the attention of the Colony Park Neighborhood Association that several residents have received notices that their Carports are in violation of code compliance. On June 29, 2013 our association participated in a ride through the neighborhood with code compliance, one of our inexperienced members was paired with a code compliance officer who was not familiar with the area which resulted in several homeowners carports being deemed not up to code because the carports are not set back twenty-five feet from the street.

In many cases the homeowners that received these notices have had their carports for thirty years or more. This neighborhood has been disenfranchised for many years and in the last several months we have made great strides in working with several city departments, as well as meeting with City Council with matters pertaining to the Sustainable Grant that Colony Park was awarded by HUD.

Colony Park Neighborhood has many disadvantages one being many people living on fixed incomes or incomes at or below the poverty level. To comply with this ordinance would cause great hardship, both physical and financially.

Our neighborhood is asking for these carports to be grandfathered in since they have been in existence for 10 years or more, and do not pose a hazard to life, health, or public safety. A setback of twenty-five feet might be possible in some areas, but not in the Colony Park area where many of the houses are less than 1300 square feet.

We the residents of the Colony Park neighborhood and the Neighborhood Association are appealing to you to work with us and develop an amicable solution that can be palatable for your department as well as the neighborhood.

With Sincere Thanks

Barbara Scott – President Colony Park Neighborhood Association

## INVESTIGATION REPORT

**Investigator:** Maria Kirk  
**Case:** CV-2013-080109  
**Address:** 6701 HILLCROFT DR 78724  
**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: Site Development Regulations for Zoning Districts (§25-2-492)

Description of Violation: The carport is encroaching into the front yard setback and a minimum of 25 feet is required in a SF-2 zoning district. Remove or obtain a variance.

Date Observed: August 1, 2013

Status: Not Cleared

Required Remedy: Remove or obtain a variance.

### Required Remedy Summary

Obtain Variance in 20 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

A person may appeal a Stop Work Order to the City of Austin's Code 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 Code Compliance Department located at 1520 Rutherford Lane, Building 1-Security Desk or mailed to:

**Code Official  
Code Compliance Department  
P.O. Box 1088  
Austin, Texas 78767**



## SPECIAL EXCEPTION INSPECTION



Address:	6701 Hillcroft Dr.
Permit Number:	2014-074249
Property Owner Requesting Special Exception:	Guadalupe & Luis Benitez

### Special Exception Requeste

Carport encroaching into front yard setback about 10 feet

Date Structure was originally constructed: not able to confirm on GIS / owner has 2004 receipt

Date of Inspection:	08-28-2014
Building Official or designated representative	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.





Samford & Associates  
Telephone 441-5601  
Fax 441-5603

# SURVEY PLAT

4360 S. Congress Avenue  
Suite 107  
Austin, Texas 78745

AE APPROVED

JUN 18 2014  
169-226  
JGM

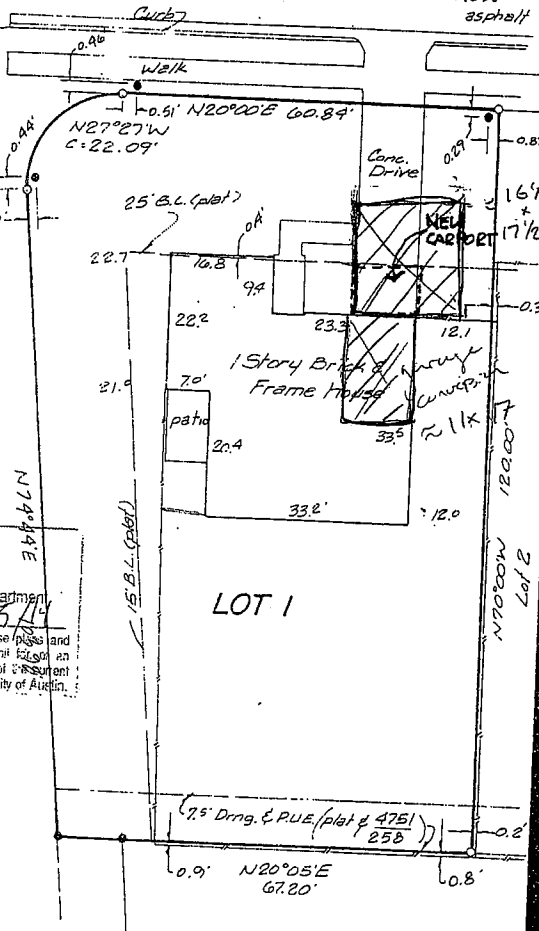
All structures etc. must maintain 7'5" clearance from AE energized power lines. Enforced by AE & NESC codes.

HILLCROFT DRIVE 50' ROW  
asphalt

LOYOLA LANE ROW VARIES  
(asphalt)

CITY OF AUSTIN  
APPROVED FOR PERMIT  
Craig Guernsey  
Planning and Development Review Department  
Date 7/15/14  
The granting of a permit for, or approval of, these plans and specifications shall not be construed to be a permit for, or approval of, any violation of any of the provisions of the current adopted building code or any other ordinance of the City of Austin.

Scale: 1"=20'  
• Pin Found  
o= Pin Set



289  
+  
187  
=  
476#

ADDRESS: 6701 Hillcroft Drive, Austin, Texas 78724

LEGAL DESCRIPTION: Lot 1, Block "D", COLONY PARK SECTION ONE PHASE THREE, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Book 66, Page 20, Plat Records, Travis County, Texas.

FLOOD STATEMENT: According to F.I.R.M. No. 480624-0025-R, dated 09/02/81, this property is located in Zone C, defined thereon as "areas of minimal flooding".

CERTIFICATION  
I, Michael Samford, R.P.L.S. No. 3693, certify to the parties listed below that this plat correctly represents a survey made upon the ground of the property shown herein, and that there are no encroachments of visible improvements, except as shown herein, and that this property has access to a public roadway, except as shown herein.

BUYER: Louis and Guadalupe Benitez  
TITLE CO.: Austin Title Company  
ENDER:  
JOB#: 920531

GF#: 92-20

SURVEY DATE: 11/15/14

Benitez Guadalupe