



SUBJECT TRACT

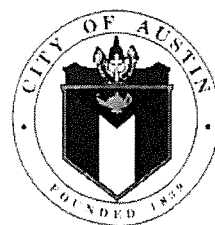


PENDING CASE



ZONING BOUNDARY

CASE#: C15-2015-0071  
Address: 1612 S CONGRESS AVE



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

1" = 200'

12/2

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE: Monday, July 13, 2015**

**CASE NUMBER: C15-2015-0071**

\_\_\_\_ Angela Atwood  
\_\_\_\_ Michael Benaglio  
\_\_\_\_ William Burkhardt  
\_\_\_\_ Vincent Harding  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Don Leighton-Burwell  
\_\_\_\_ Melissa Neslund  
\_\_\_\_ James Valadez  
\_\_\_\_ Michael Von Ohlen

**APPLICANT: David Cancialosi**

**OWNER: Claude Benayoun**

**ADDRESS: 1612 CONGRESS AVE**

**VARIANCE REQUESTED:** The applicant has requested variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the street side yard setback from 10 feet (required) to 0 feet (requested) in order to construct a patio cover structure in an "CS-V-CO-NP", General Commercial Services – Vertical Mixed Use - Conditional Overlay– Neighborhood Plan zoning district. (Bouldin Creek)

**BOARD'S DECISION:** POSTPONED TO July 13, 2015 AT THE APPLICANT'S REQUEST; July 13, 2015 POSTPONED TO September 14, 2015 AT THE APPLICANT'S REQUEST

**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:

  
Leane Heldenfels  
Executive Liaison

  
Vincent Harding  
Chairman

C15-2015-0071

Heldenfels, Leane

**From:** John Bodek <jbodek@bcna.com>  
**Sent:** Monday, September 14, 2015 10:42 AM  
**To:** david cancelosi; Heldenfels, Leane  
**Cc:** Claude Benayoun; [REDACTED]; Paul Strange; Kevin Lewis  
**Subject:** Re: [REDACTED]\_20150910\_100022.pdf

L2  
3

Hi, David -

Yes, let's please request postponement. Over the weekend, the zoning committee did review and attempt to accept the language that you sent us on 9/10. However, we would like some additional time to follow up with you. I expect it will be an easy conversation. The primary roadblock was the limited amount of time to respond prior to tonight's BOA meeting.

I won't be able to attend BOA tonight, but Kevin Lewis (BCNA President) will be there.

Leane, can you please confirm what date this case can next be scheduled for?

Thanks, all.

John Bodek  
BCNA Zoning Chair

----- Forwarded message -----

**From:** david cancelosi <[REDACTED]>  
**Date:** Mon, Sep 14, 2015 at 9:32 AM  
**Subject:** Re: [REDACTED] 20150910 100022.pdf  
**To:** John Bodek <jbodek@bcna.com>  
**Cc:** Claude Benayoun <[REDACTED]>, "Heldenfels, Leane" <[REDACTED]>, Paul Strange <[REDACTED]>, Kevin Lewis <[REDACTED]>, "Heldenfels, Leane" <Leane.Heldenfels@austintexas.gov>

John, do you believe we need to ask for 1 last postponement ahead of time?

Kind Regards,  
David Cancelosi  
Permit Partners, LLC  
105 W. Riverside Suite 225  
Austin, TX 78704  
[512.593.5368](tel:512.593.5368) o  
[512.213.0261](tel:512.213.0261) f  
[www.Permit-Partners.com](http://www.Permit-Partners.com)

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**From:** John Bodek <jbodek@bcna.com>  
**Date:** Thursday, September 10, 2015 at 2:23 PM

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**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, June 8, 2015

**CASE NUMBER:** C15-2015-0071

\_\_\_\_ Jeff Jack - Chair  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Melissa Whaley Hawthorne - Vice Chair  
\_\_\_\_ Sallie Burchett  
\_\_\_\_ Ricardo De Camps  
\_\_\_\_ Brian King  
\_\_\_\_ Vincent Harding  
\_\_\_\_ Will Schnier - Alternate  
\_\_\_\_ Stuart Hampton - Alternate

**APPLICANT:** David Cancialosi

**OWNER:** Claude Benayoun

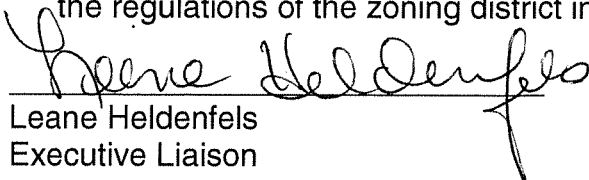
**ADDRESS:** 1612 CONGRESS AVE

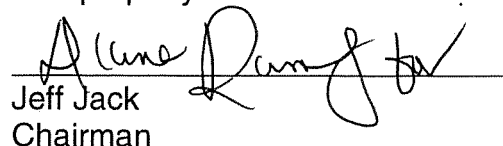
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3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

  
Leane Heldenfels  
Executive Liaison

  
Jeff Jack  
Chairman

CASE# C15-2015-0071  
ROW# 11349627  
TAX# \_\_\_\_\_

12/5

**CITY OF AUSTIN APPLICATION  
TO BOARD OF ADJUSTMENT GENERAL TCAD 040001318  
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: 1612 South Congress

LEGAL DESCRIPTION: Subdivision – LOT 5&6 BLK 22 SWISHER ADDN

Lot(s) 5&6 Block 22 Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We David Cancialosi on behalf of myself/ourselves as authorized agent for

Claude Benayoun affirm that on February 25, 2015, 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**

Variance from LDC 25-2-492 (D) to erect an open air, cantilevered 661.80 SF patio cover over  
existing impervious cover to reduce the street side yard setback from 10' to 0'.

in a <sup>✓-</sup> **CS-CO-NP** district. (Bouldin Creek)  
(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):**

L2  
6

**REASONABLE USE:**

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

The site has an available patio area that has existing impervious coverage. This area is not shielded from noise or weather and the uncovered patio and exposed exterior facade is suffering from weatherization. The increased density and associated noise, traffic, and use of the area as a whole is contributing to the need for a covered patio. The proposed cantilevered structure will not have any supporting posts and thus not block any line of sight views from intersecting traffic. The cover will offer shade in the summer and warmth in the winter, promoting year round use on a portion of property valued at \$1,000,000+ that is taxed accordingly. The owner requests he be able to utilize a legal portion of this property consistent with several other restaurants in the area.

**HARDSHIP:**

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

The site is a corner lot at the corner of West Milton St. and South Congress Avenue that has an existing outdoor corner patio which is currently in use, but who's use is extremely limited due to inconsistent weather patterns and increased surrounding noise. The physical building that this particular restaurant (Enoteca) is housed within is very small and cannot fully utilize the patio portion of the property to the full extent allowed by zoning regulations without a patio cover. Customers are continually wanting to site outside, but desire to avoid the sun or inclement weather.

Regarding parking, the site is fully parked so adding the cantilevered cover will not generate the need for more parking spaces. The same number of seats / tables will be utilized with or without the cover; however, the cover will allow the existing outdoor space to be utilized in a more consistent manner similar to other restaurants with covered patios in the area which are allowed to respond to requests for full time seating on a year round basis. In the immediate area this includes Doc's Motorworks, Guero's Bar and Grill, and Homeslice Pizza.

The existing patio is part of the same legal lot(s) that Travis County has recognized as taxable land since 1935 and specific to the patio since 1977, yet the owner cannot fully develop and use the commercial property to the extent possible due to strict application of the CS zoning side-street setback performance standards.

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

There are no known commercial properties in the immediate area with outdoor patios situated on 2 intersecting streets that are not allowed to utilize the space in a reasonable and comfortable manner due to the strict application of the zoning code.

**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 proposed cover would be cantilevered from the existing 1 story building and has no supports. It would not be blocking anyone's view. This includes pedestrian, bicycle, and automotive traffic. The canopy itself will be stepped down from the edge of the building height, yet high enough to allow considerable head clearance and multiple outdoor fans hung from underneath the cover. The cover will also help dress up the bare concrete wall exposed to West Milton Street. This cover is substantially less intrusive than has been previously proposed to prior BOA commissioners, and certainly less obtrusive with a more thoughtful streetscape design than the hotel being built across the street. Allowing the cantilevered patio cover over the existing concrete does nothing to impair the use of adjacent property, and in fact, allows a better method for capturing and managing run off during rain events. The cover allows the corner patio area to enhance what is now a deteriorating sidewall façade that detracts from the overall area aesthetic. The owner has several neighbors who support this request.

**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:


42  
8

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 105 W. Riverside Suite 225  
City, State & Zip Austin, TX 78704

Printed David C. Cancialosi Phone 512-593-5368 Date February 25, 2015

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

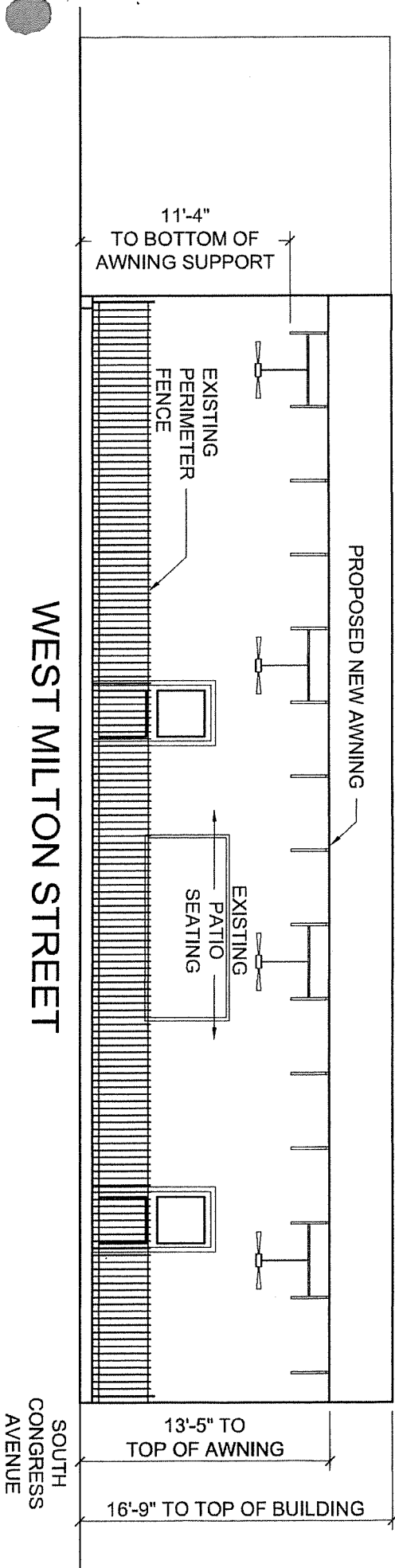
Signed Claude Benayoun Mail Address 1610/1612  
Congress avenue

City, State & Zip Austin Texas 78704

Printed Claude Benayoun Date February 25,  
2015



L2  
9



<b>ENOTECA</b>
ITALIAN DELICATESSEN
1612 S. CONGRESS AVE.
AUSTIN, TEXAS 78704
<b>ELEVATION</b>
SCALE: 1/8" = 1'-0"

27/01

EXISTING ENOTECA RESTAURANT

BUILDING ON  
PROPERTY LINE  
(GRANDFATHERED  
FROM SETBACK  
REQUIREMENTS)

CONCRETE WALK

5' BUILDING SETBACK

SPACES

22



AWNING INTRUSION  
INTO SETBACK

10.00'

NEW 661.8 SF AWNING OVER  
EXISTING OUTDOOR DINING  
(AWNING EXTENDS TO FRONT AND  
SIDE PROPERTY LINE)

59.8'

10' BUILDING SETBACK

11.10'

AWNING INTRUSION  
INTO SETBACK

5.00'

STREET  
LIGHT



1.42'

CONCRETE WALK

EXISTING FENCE

EXISTING ON STREET ACCESSIBLE SPACE  
(CITY PROVIDED)



SOUTH CONGRESS AVENUE

WEST MILTON STREET

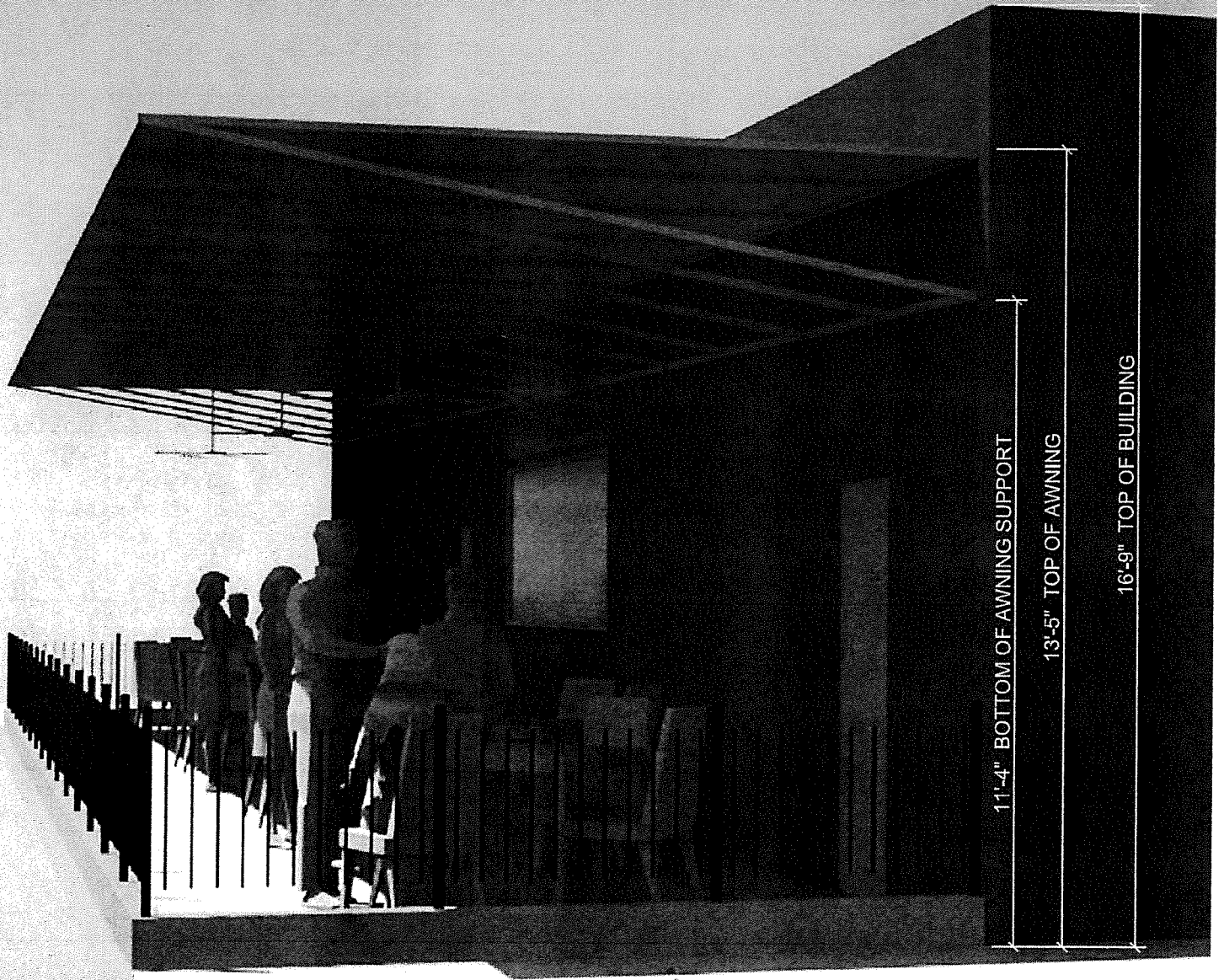
ENOTECA

ITALIAN DELICATESSEN  
1612 S. CONGRESS AVE.  
AUSTIN, TEXAS 78704

SITE PLAN

SCALE: 1" = 10'-0"

L2  
11



WEST  
MILTON  
STREET

SOUTH CONGRESS AVENUE

L2  
12

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**Case Number: C15-2015-0071, 1612 South Congress**

**Contact:** Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

**Public Hearing: Board of Adjustment, June 8th, 2015**

Ellen Cabluck  
Your Name (please print)

Ellen Cabluck 9/9/15  
Your address(es) affected by this application

Ellen Cabluck 9/9/15  
Signature Date

Daytime Telephone: 512-707-1295

Comments: We believe this variance  
should not be allowed. The restaurant  
already has maximum reasonable use  
of the side setback. No hardship is  
caused by not obtaining a larger setback.

FURTHER DESTROYING THE  
CHARM OF THE NEIGHBORHOOD!

Note: All comments received will become part of the public record of this case

**If you use this form to comment, it may be returned by noon the day of the hearing to:**

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-6305

L2  
13

Or scan and email to leane.heldenfels@austintexas.gov

☐ I am in favor  
☒ I object

☐ I am in favor  
☐ I object

#### PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

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An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:  
delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*);  
or  
appearing and speaking for the record at the public hearing;  
and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

12  
14

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**Contact:** Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

**Public Hearing: Board of Adjustment, June 8th, 2015**

Your Name (please print)

Mary & Bill Ley

Your address(es) affected by this application

404 West Monroe  
Austin, TX 78704

1403 Newton  
Austin, TX 78704

1405 Newton  
Austin, TX 78704

Signature

Date

Daytime Telephone:

512-626-6780

Mary & Bill

8/19/15

Bill 8/19/15

Comments:

We would not oppose this permit, if the applicant would agree in writing not to seek to <sup>enlarge or</sup> enclose this patio area in the future with walls, or to make it a fully enclosed addition to the existing building. This should be a covenant in a form that can be filed in the deed records, and should run with the land. Applicant must post a bond to reimburse BCNA for attorney fees if this covenant is ever violated.

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42  
15

☐ I am in favor  
☒ I object

☐ I am in favor  
☒ I object

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For additional information on the City of Austin's land development process, visit our web site: <http://www.austintexas.gov/devservices>

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**Contact:** Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

**Public Hearing: Board of Adjustment, June 8th, 2015**

Your Name (please print)

BRETT WARREN

Your address(es) affected by this application

1609 EVA ST  
AUSTIN, TX 78704

Signature



Date AUG 6, 2015

Daytime Telephone:

Comments: THE ON-STREET PARKING HAS MADE IT HARD FOR US TO GET IN AND OUT OF THE DRIVEWAY, ESPECIALLY ON THE WEEKENDS AND WEEKNIGHTS. THIS HAS BEEN INCONVENIENT AT TIMES.

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12  
17

☐ I am in favor  
☒ I object

☐ I am in favor  
☒ I object

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**Contact:** Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

**Public Hearing: Board of Adjustment, June 8th, 2015**

Elizabeth Joe Day

Your Name (please print)

☐ I am in favor  
☒ I object

1609 Nickerson St. Austin 78704

Your address(es) affected by this application

Elizabeth Joe Day  
Signature

Date

Daytime Telephone: 512-441-1759

Comments:

The awning will allow for more tables at all times - which will generate even more traffic near our street and cars parking in front of our house. This venue does not have adequate parking for patrons & employees & it's

Note: All comments received will become part of the public record of this case

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City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-6305

Or scan and email to [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

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- appearing and speaking for the record at the public hearing;

- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
  - is the record owner of property within 500 feet of the subject property or proposed development; or
  - is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: <http://www.austintexas.gov/devservices>.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record for the case.

**Case Number: C15-2015-0071, 1612 South Congress**  
**Contact:** Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)  
**Public Hearing: Board of Adjustment, June 8th, 2015**

*Armandina Flores*

Your Name (please print)

1607 Newton St. Austin TX 78704

Your address(es) affected by this application

*Armandina Flores* 6-8-15

Signature

Date

Daytime Telephone: 512-560-7544

Comments:

☒ I am in favor  
☐ I object

Note: All comments received will become part of the public record of this case

**If you use this form to comment, it may be returned by noon the day of the hearing to:**

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-6305

Or scan and email to [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

# South Congress Improvement Association (SCIA)

Serving SoCo since 2014

June 5, 2015

Leane Heldenfels  
City of Austin  
Planning & Development Review Department  
P.O. Box 1088  
Austin, TX 78767-1088

RE: Case Number C15-2015-0071, 1612 South Congress

Dear Ms. Heldenfels,

The Board of the South Congress Improvement Association (SCIA) would like to register its support of the variance request to construct a patio cover structure for Enoteca located at 1612 South Congress Avenue.

The Board supports the request because Vespaio/Enoteca is a long established, successful restaurant which adds significantly to the vitality of the South Congress District and to Austin. Patios and outdoor dining are encouraged as they help promote a vibrant pedestrian environment. The proposed patio cover structure will provide much needed shade and protection from the elements and we commend Mr. Benayoun for the aesthetically pleasing design. Sub Chapter E – Commercial Design Standards allow awnings to cover sidewalks to the property line. This cover will also go the property line and provide a similar type of relief and enjoyment.

The Board supports the request as it is reasonable in this urban location and is consistent with Austin's goals of providing vibrant, commercial districts where residents can enjoy outdoor dining in a pedestrian friendly environment. Please provide this letter of support to the Board of Adjustment members for their consideration.

Best Regards,

Andrew Moore  
Executive Director  
South Congress Improvement Association

L2  
20

# South Congress Merchants Association

L2  
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June 5, 2015

Leane Heldenfels  
City of Austin  
Planning & Development Review Department  
P.O. Box 1088  
Austin, TX 78767-1088

RE: Case Number C15-2015-0071, 1612 South Congress

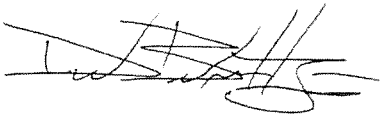
Dear Ms. Heldenfels,

The South Congress Merchants Association (SCMA) recently learned of the variance request to construct a patio cover structure for one of our association's members, Enoteca, located at 1612 South Congress Avenue. As both Enoteca and Vespaio are long-standing businesses and positive contributors to both the South Congress shopping district and greater Austin as a whole, the SCMA fully supports the requested variance.

Mr. Benayoun's excellent design for the new awning will allow Enoteca to continue serving customers both during inclement weather and during hot weather when outdoor diners require shade. South Congress merchants welcome such additions to our shopping district's environment, as it promotes business both during inclement weather and otherwise, and encourages commerce. Furthermore, such awnings already have precedent in the City of Austin's Commercial Design Standards, and this variance will not exceed similar design standards granted to other businesses.

In closing, the South Congress Merchants Association fully supports Enoteca's request as a positive and worthwhile effort that will contribute to our vibrant and pedestrian-friendly commercial corridor, and we ask that you provide this letter to the Board of Adjustment as evidence of our support.

Sincerely,



Brandon Hodge  
President  
South Congress Merchants Association

