

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



**DATE:** Monday, October 12, 2015

**CASE NUMBER:** C15-2015-0107

\_\_\_Y\_\_\_ Brooke Bailey  
\_\_\_Y\_\_\_ Michael Benaglio  
\_\_\_Y\_\_\_ William Burkhardt -2<sup>nd</sup> the Motion  
\_\_\_N/A\_\_\_ Eric Goff  
\_\_\_Y\_\_\_ Vincent Harding  
\_\_\_Y\_\_\_ Melissa Hawthorne - Motion to PP to 11/9/15  
\_\_\_Y\_\_\_ Don Leighton-Burwell  
\_\_\_Y\_\_\_ Melissa Neslund  
\_\_\_Y\_\_\_ James Valadez  
\_\_\_OUT\_\_\_ Michael Von Ohlen

**APPLICANT:** James Coak

**OWNER:** Julia Esparza

**ADDRESS:** 4502 MERLE DR

**VARIANCE REQUESTED:** The applicant has requested a Special Exception under Section 25-2-476 (Special Exception) from:

A. Section 25-2-492 (D) (Site Development Regulations) to decrease the side yard setback from 5 feet (required) to 0 feet (requested, existing); and to

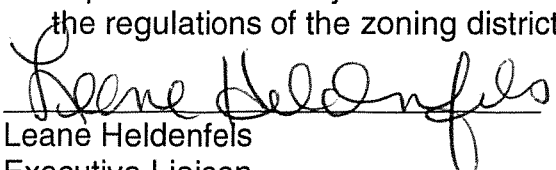
B. Section 25-2-555 (B) to decrease the rear yard setback from 5 feet (required) to 0 feet (requested, existing)

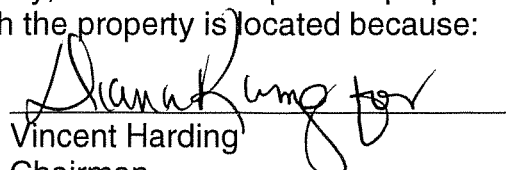
in order to maintain a detached second dwelling unit constructed at least 10 years ago in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (South Manchaca)

**BOARD'S DECISION:** POSTPONED TO 11/9/15 BY STAFF TO RESOLVE PENDING AUSTIN ENERGY ISSUES

**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



5 1/2



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

**NOTIFICATIONS**

CASE#: C15-2015-0107  
LOCATION: 4502 Merle Drive



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 by the City of Austin regarding specific accuracy or completeness.

1 " = 165 '

Special Exception

11/3  
C15-2015-0107

CASE# CV-2014-129678

ROW# 11389311

TAX# 0408120107

CITY OF AUSTIN TCA

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: 4502 MERLE

LEGAL DESCRIPTION: Subdivision -

Lot(s) 8 Block A Outlot Ford Division plack 1,

I/We James A. Cook on behalf of myself/ourselves as authorized agent for

Mrs. Julia N. Esparza affirm that on MAY 29,

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

SEE A one Bedroom Apartment in  
setbacks built in 2002, 10903sf

lot.

in a SF-3-NP district. (South Manchaca)  
(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.

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**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings (see page 3 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:

~~NO~~ 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

11/5

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 James E. K. Mail Address 5608 Hynette Blvd  
City, State & Zip Austin TX 78744  
Printed JAMES E. K. Phone 512-956-2264 Date 5-29-15

**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 See attached 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;

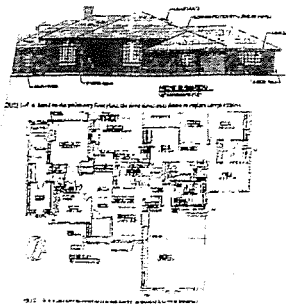
(2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and

(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.

31/6



# BRS Construction • PBCS

A Construction Design

Consultants Company

5608 HONEYBEE BEND AUSTIN, TX 78744 E-Mail

BLESSEDBRS.JC@GMAIL.COM 512-956-2264 512-698-9752

Dated May 10-2015

Ms. Julia N. Esparza

4502 Merle Dr.

Austin, Tx 78745

512-447-5453

512-902-3647

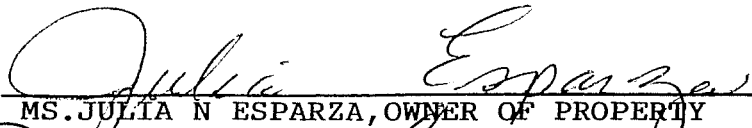
(REGUARDING CODE VIOLATION) CASE # CV-2014-129678

This violation occurred on Legally described as Lot 8 BLK A Ford Place 1;  
zoned as SF-3 in the city of Austin, Tx

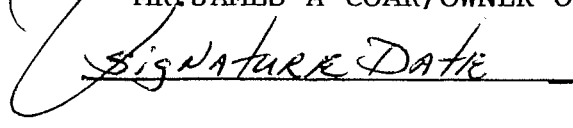
I Julia Esparza, Have ask Mr. James A Coak to act in my behalf; to file the necessary paper work to try and resolve the actions filed against my property located at the above address.

He will be filing the application for special Exception, to the Board of Adjustment. The owner will be filing this because it is required under Chapter 25-2 Zoning), and because the violation has existed at least 10 years, and the structure does not share a lot with more than one other primary residence. It is understood that if 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

I Mr. James A Coak will be charging an Hourly Rate Per. hr. at \$75.00 There will also be some other fees and cost that will be in addition to the hourly rate.; such as a to scale site plan, and the filing of a Life Safety permit. and upon obtaining of this permit an inspection will be scheduled., Upon the preparation, of this letter, I currently have 10, hrs.

  
MS. JULIA N. ESPARZA, OWNER OF PROPERTY

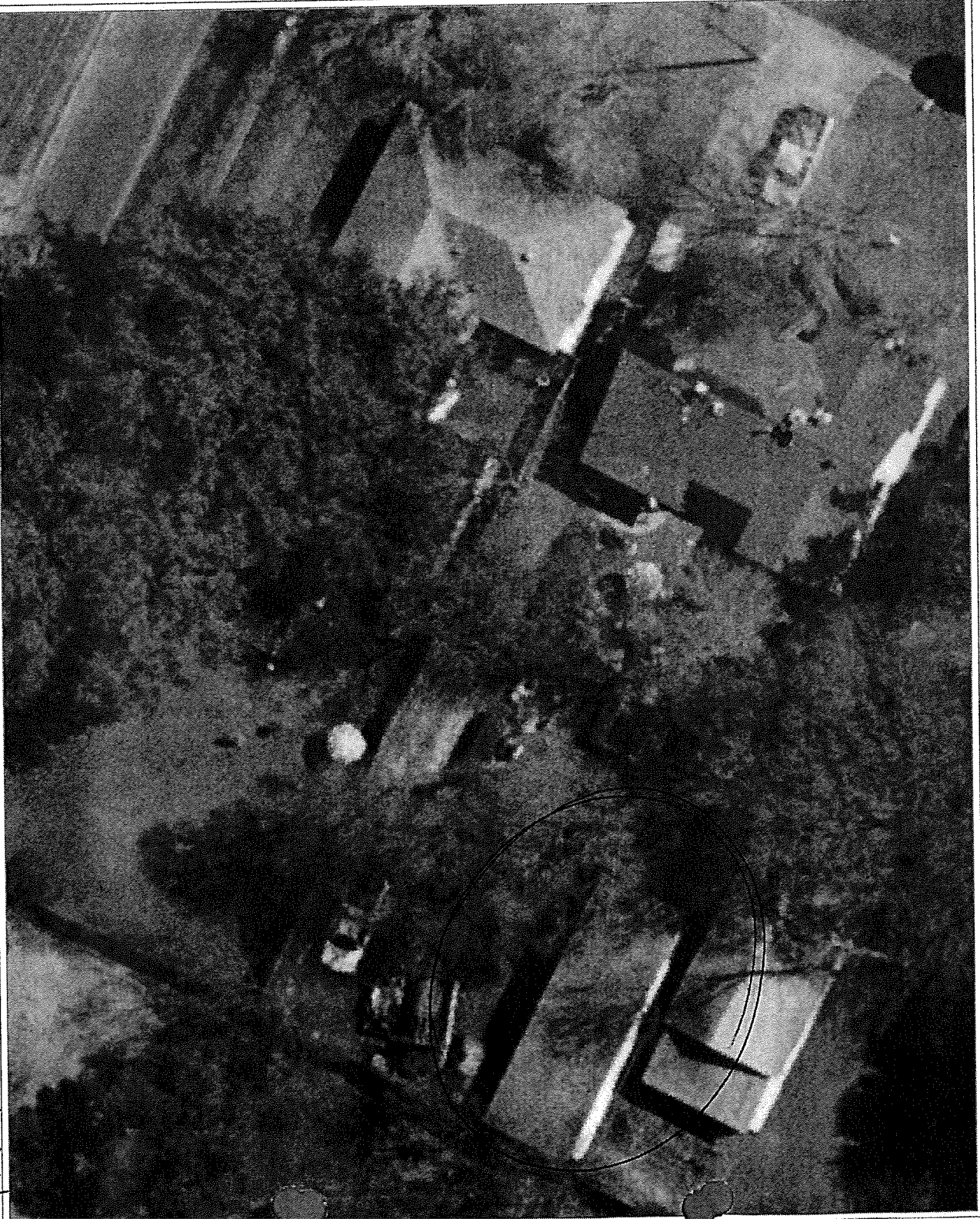
  
MR. JAMES A. COAK / OWNER OF BRS. CONST

  
SIGNATURE DATE                      / 2015


4502  
Merle


CITY OF AUSTIN DEVELOPMENT WEB MAP


2003 April





Legend

 Lot Lines


 Streets

 Building Footprints

 Named Creeks

 Lakes and Rivers

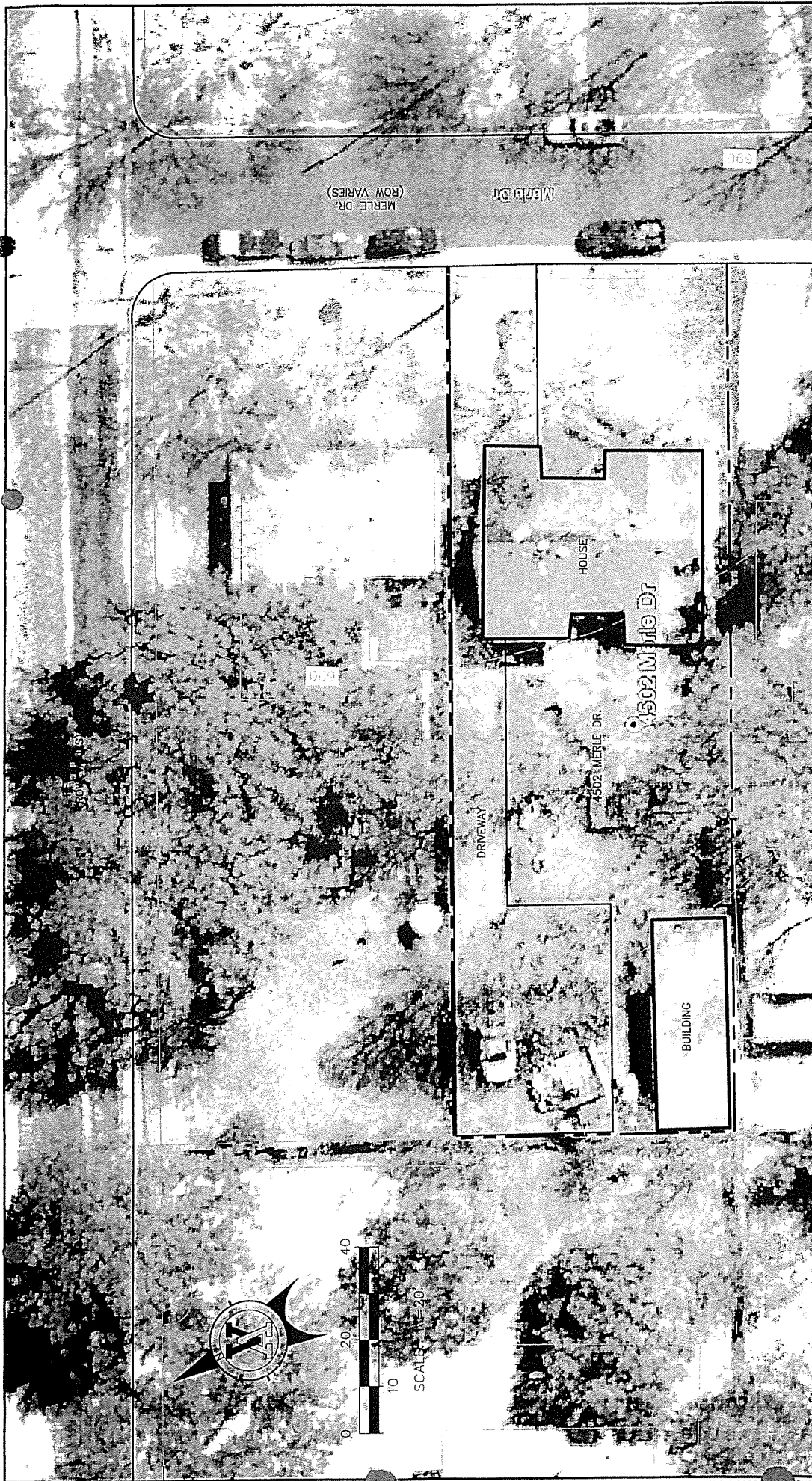
 Parks

 County

8/17

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May 27, 2015 - 2:55pm  
 M:\4502 Merle\DWG\4502 Merle  
 2003 Aerial

**VICKREY & ASSOCIATES, INC.**  
**CONSULTING ENGINEERS**  
 1717 West 6th Street, Suite 260, Austin, Texas 78703  
 Telephone: (512) 494-8014

4502 MERLE DRIVE
2-28-2003 AERIAL
4502 MERLE DR.
AUSTIN, TEXAS 78745
DATE: 05/27/2015

5/9



## SPECIAL EXCEPTION INSPECTION



31/10

Address:	4502 Merle Dr.
Permit Number:	2015-101987
Property Owner Requesting Special Exception:	Julian Esparza

### Special Exception Requested:

Unpermitted accessory dwelling encroaching into rear and side yard setback.

Date Structure was originally constructed: COA, GIS identified to exist in 2003

Date of Inspection:	September 8, 2015
Building Official or designated representative	Tony Hernandez
	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
<b>X</b>	<p>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:</p> <ol style="list-style-type: none"><li>1. Water heater not installed to gas code</li><li>2. Unpermitted gas system installed. will require a plumbing permit</li><li>3. Carbon monoxide detectors missing</li><li>4. Smoke detectors missing</li><li>5. Head room heights not in compliance</li><li>6. Stair landing not to code</li><li>7. Electrical hazards that will require electrical permit</li><li>8. Potential cross connections on potable water system</li><li>9. Will require building permit and engineering to verify structural conditions</li></ol>