






-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

CASE#: C15-2016-0010
Address: 1209 NEWNING AVENUE

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" = 200'

31/2

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

DATE: Monday, March 14, 2016

CASE NUMBER: C15-2016-0010

____ Brooke Bailey
____ Michael Benaglio
____ William Burkhardt
____ Eric Goff
____ Melissa Hawthorne
____ Don Leighton-Burwell
____ Rahm McDaniel (Alternate)
____ Melissa Neslund
____ James Valadez
____ Michael Von Ohlen
____ - Kelly Blume (Alternate)

APPLICANT: Tom Hurt

OWNER: Sam Hurt

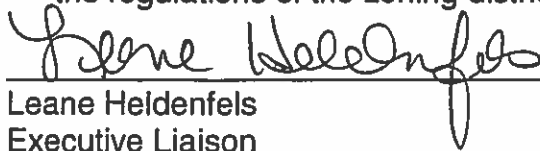
ADDRESS: 1209 NEWNING AVE

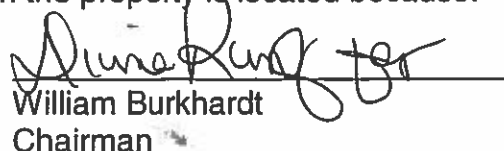
VARIANCE REQUESTED: The applicant has requested a Special Exception under Section 25-2-476 (*Special Exception*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease rear yard setback from 10 feet (required) to 7 feet (requested, existing) in order to maintain a 2-story accessory structure and studio constructed at least 10 years ago in an "SF-3- NCCD - NP", Family Residence – Neighborhood Conservation Combining District - Neighborhood Plan zoning district. (Fairview Park/South River City)

BOARD'S DECISION: March 14, 2016 POSTPONED TO MAY 9, 2016 BY APPLICANT (RE-NOTIFICATION NEEDED)

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


William Burkhardt
Chairman



CITY OF AUSTIN

Development Services Department
One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Revised

51/3

Board of Adjustment General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. *If more space is required, please complete Section 6 as needed.* All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 1209 Newning Ave.

Subdivision Legal Description:

BLK 48 *LESS S10FT FAIRVIEW PARK

Lot(s): _____ Block(s): 48

Outlot: _____ Division: _____

Zoning District: MF-4

I/We Tom Hurt on behalf of myself/ourselves as
authorized agent for Sam & Jun Hurt affirm that on

Month February, Day 19, Year 2016, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☒ Maintain ☐ Other: _____

Type of Structure: Existing 2 Story Accessory Structure & Art Studio

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

25-2-492 - SITE DEVELOPMENT REGULATIONS

Existing structure encroaches the 10' rear yard setback

5/4

Section 2: Variance Findings

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 supporting documents.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

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

Special Exception

Hardship

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

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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:

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1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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.

Section 3: Applicant Certificate

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

Applicant Signature: _____

Date: 2-19-16

Applicant Name (typed or printed): Tom Hurt

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Applicant Mailing Address: 409 W 14th St
City: Austin State: Texas Zip: 78701
Phone (will be public information): (512) 473-0123
Email (optional – will be public information): _____

Section 4: Owner Certificate

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

Owner Signature: Sam Hurt Date: 2-19-2016

Owner Name (typed or printed): Sam Hurt

Owner Mailing Address: 1209 Newning Avenue

City: Austin State: Texas Zip: 78704

Phone (will be public information): (512) 422-7624

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Tom Hurt

Agent Mailing Address: 409 W. 14th St.

City: Austin State: Tx Zip: 78701

Phone (will be public information): (512) 473-0123

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

The subject structure is a 2 story wood frame, 824 sq. ft. storage space & art studio that was built in 1987. The east wall of the structure encroaches 3 feet into the rear yard setback with a 4 foot wide round window bay on the second level encroaching an additional 2 feet into the rear yard setback. The structure is 7 feet away from the rear property line with no known utility easements. In the approximate 27 years the structure has been in place, there have been no complaints known by the owner of the presence of the structure.

57

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.

CS-2016-0010

5/8



SPECIAL EXCEPTION INSPECTION



Address:	1209 Newning Ave
Permit Number:	2016-017330
Property Owner Requesting Special Exception:	Richardo Sepulveda

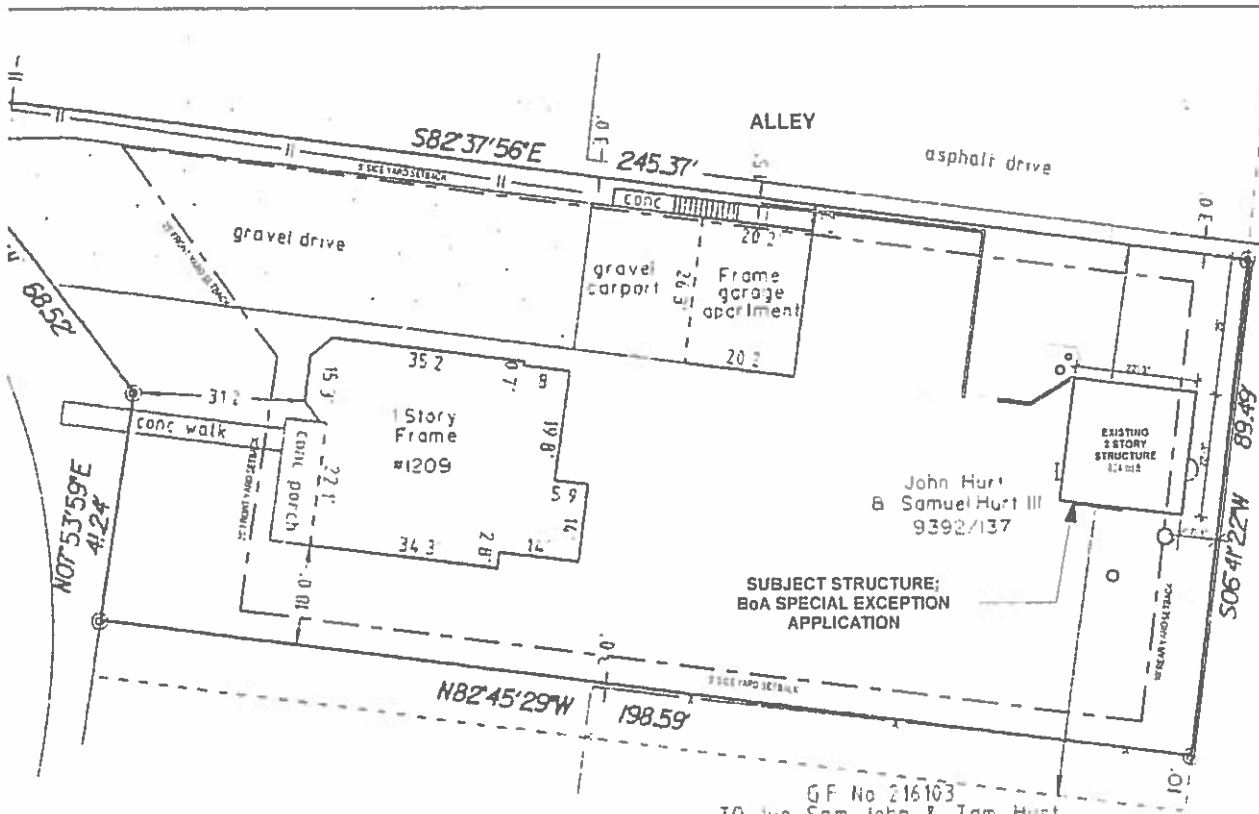
Special Exception Requested:

Garage encroaching into rear setback

Date Structure was originally constructed: COA GIS CONFIRMS EXISTANCE IN 1997

Date of Inspection:	2-24-2016
Building Official or designated representative	Tony Hernandez
X	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.

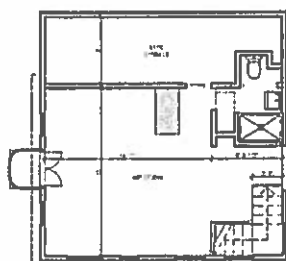
5/9



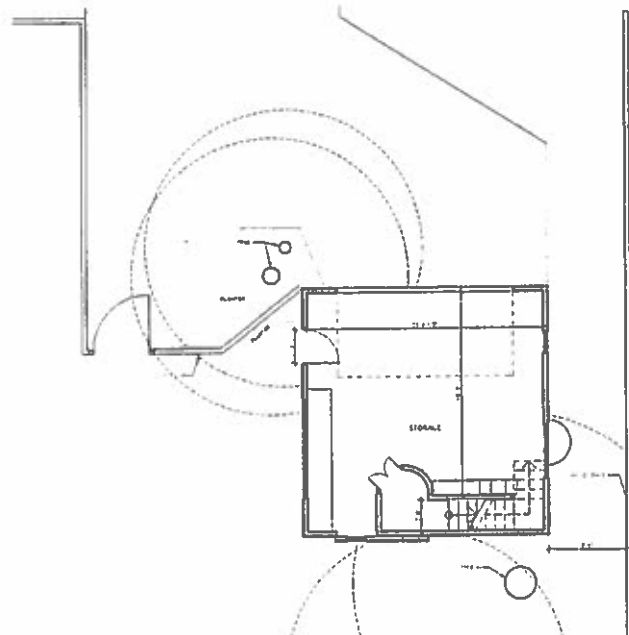
THE STATE OF TEXAS
COUNTY OF TRAVIS

GF No 216103
TO Jun, Sam, John, & Tom Hurt
Advantage One Mortgage, Ltd
Texas Professional Title Co

5/10



2nd FLOOR
SCALE 1/8" = 1'-0" 2



1st FLOOR
SCALE 1/8" = 1'-0" 1

5/11

CITY OF AUSTIN DEVELOPMENT BUILDING FOOTPRINT 1997



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.

5/12

CITY OF AUSTIN DEVELOPMENT AERIAL 1997



Legend

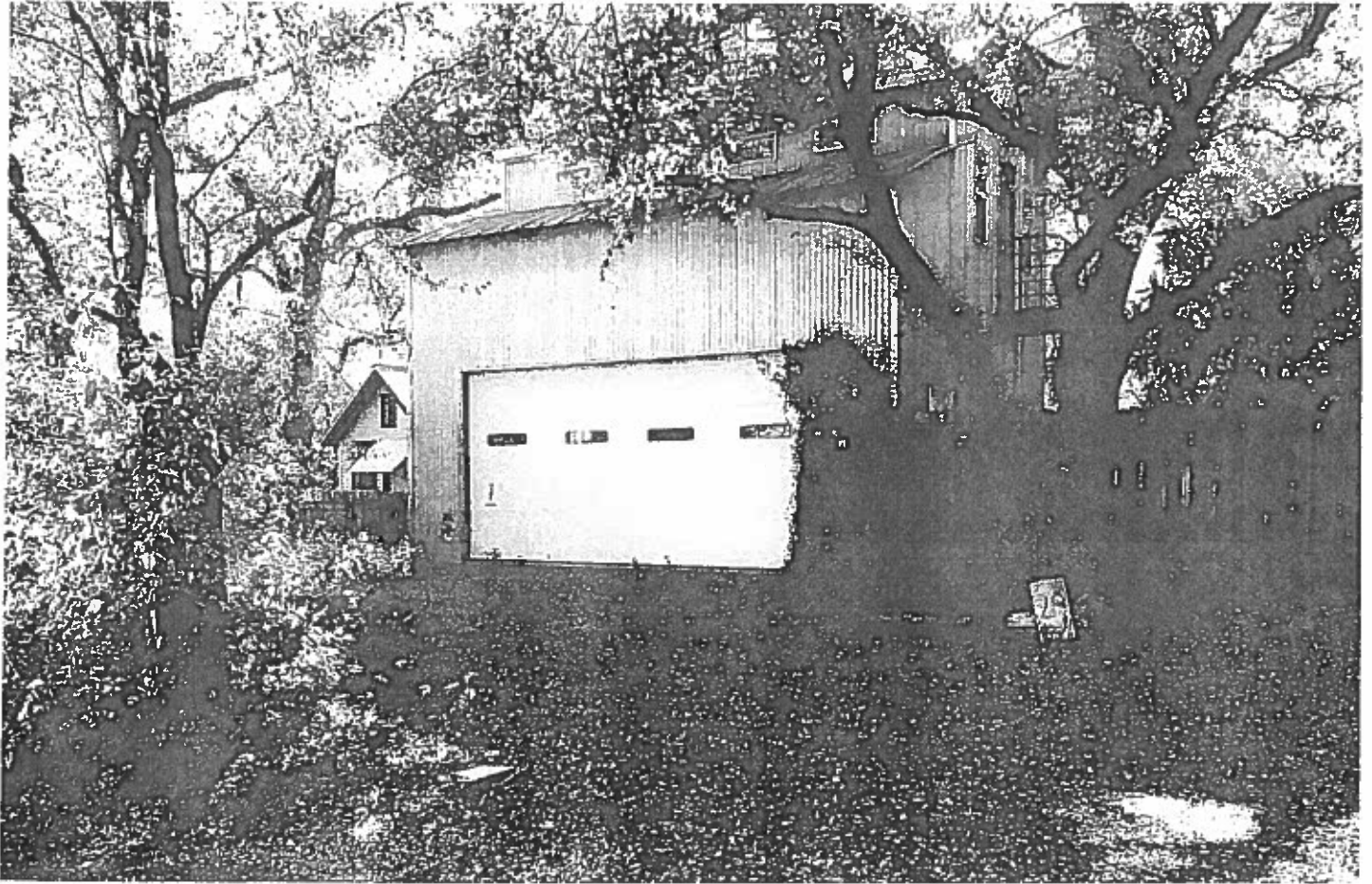
- Lot Lines
- Streets
- Building Footprints
- Named Creeks
- Lakes and Rivers
- Parks
- County
- TCAD Parcels
- Lot Line

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.

51
13



5/3



North Elevation

JJ
15



South Elevation

51
16



FILM SLIDE FROM PHOTO
TAKEN OF EXISTING
STRUCTURE IN MAY 1995

7/17

This photo of the owners' daughter, Elaine Hurt, was taken in front of the subject structure, when Elaine was approximately 7 years old. This photo was taken in 1998. Elaine was born in 1991.

Elaine is currently 24 years old.



J1
18

January 9, 2016

City of Austin
Leane Heldenfels
Development & Services Department
One Texas Center
505 Barton Springs Road, Austin, Texas 78704

Ms. Heldenfels and the Board of Adjustments,

I live at 1207 Newning Avenue. I have been a next-door neighbor of Sam and Jun Hurt who live at 1209 Newning Ave, for over 30 years. They have a 2-story structure in the back of their property that Sam and Jun use for storage and as an art studio. Sam and Jun have informed me that when it was originally built in the late 1980's, it was built such that it encroaches on the back building set-back line of their property by approximately 4', and is thus closer to the back property line than is allowed with current single family zoning.

I am writing to state that I have no objection to your board granting Sam and Jun Hurt a special exception variance for their structure encroaching on the back building set-back line. I have a background in construction, and when this structure (which we call the "Shedifice") was built sometime around 1989, I observed with interest. It was very well put together; some of the best construction I have ever observed as a matter of fact. It has not been in any way an encumbrance on my life. On the contrary, I have enjoyed participating in art projects there, and I consider it an important contribution to the character of our neighborhood.

Sincerely,



William C Barnett

JJ
19

December 21, 2015

City of Austin
Leane Heldenfels
Development Services Department
One Texas Center
505 Barton Springs Road, Austin Texas 78704

Ms. Heldenfels and the Board of Adjustments,

I and my family live at 513 Academy Drive and have been a neighbor of Sam and Jun Hurt who live at 1209 Newning Ave, for approximately 20 years. We have been aware that there is a 2-story structure in the back of their property that Sam and Jun use for storage and an art studio. Sam and Jun have informed us that when it was originally built in the late 1980's, it was built such that it encroaches on the back building set-back line of their property by approximately 4', and is thus closer to the back property line than is allowed with current single family zoning.

We are writing to state that we have no objection to your board granting Sam and Jun Hurt a special exception variance for their structure encroaching on the back building set-back line. The structure was built before we moved to our house at 513 Academy Drive and it has not been in any way an encumbrance on our lives.

Sincerely,



Brandon and Quinn Goodloe
513 Academy Drive
Austin, TX 78704
(512) 924-8400

JJ
20

12/19/2015

City of Austin
Leane Heldenfels
Development & Services Department
One Texas Center
505 Barton Springs Road, Austin, Texas 78704

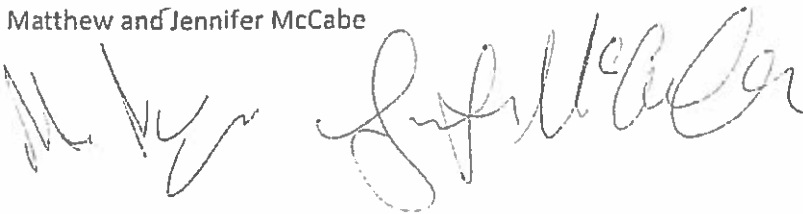
Ms. Heldenfels and the Board of Adjustments,

I and my family live at 1211 Newning Ave, and have been a next-door neighbor of Sam and Jun Hurt who live at 1209 Newning Ave, for approximately 4 years. We have been aware that there is a 2-story structure in the back of their property that Sam and Jun use for storage and an art studio. Sam and Jun have informed us that when it was originally built in the late 1980's, it was built such that it encroaches on the back building set-back line of their property by approximately 4', and is thus closer to the back property line than is allowed with current single family zoning.

We are writing to state that we have no objection to your board granting Sam and Jun Hurt a special exception variance for their structure encroaching on the back building set-back line. The structure was built before we moved to our house at 1211 Newning and it has not been in any way an encumbrance on our lives. In fact, having it there is one of the unique qualities we love about Travis Heights.

Sincerely,

Matthew and Jennifer McCabe

Handwritten signatures of Matthew and Jennifer McCabe. The signature on the left is 'Matthew' and the signature on the right is 'Jennifer'.

Any questions Matthew cell- (512) 968-2528



SPECIAL EXCEPTION INSPECTION



5/2

Address:	1209 Newning Ave
Permit Number:	2016-017330
Property Owner Requesting Special Exception:	Richardo Sepulveda

Special Exception Requested:

Garage encroaching into rear setback

Date Structure was originally constructed: COA GIS CONFIRMS EXISTANCE IN 1997

Date of Inspection:	2-24-2016
Building Official or designated representative	Tony Hernandez
X	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.

Heldenfels, Leane

J
22

From: Karin Ascot [REDACTED]
Sent: Thursday, March 03, 2016 5:13 PM
To: Heldenfels, Leane
Cc: Sam Hurt; Jun Hurt
Subject: Case #C15-2016-0010

Dear Ms. Heldenfels,

I'm a near neighbor of Mr. Sam Hurt and received the notice regarding the Board of Adjustment hearing on this case. I have spoken with Mr. Hurt and support his application.

Sincerely,
Karin Ascot
405 Academy Drive 78704

Sent from phone: pls excuse brevity & typos.

March 23, 2016

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23

City of Austin
Leane Heldenfels
Development & Services Department
One Texas Center
505 Barton Springs Road, Austin, Texas 78704

Ms. Heldenfels and the Board of Adjustments,

We and our family live at 509 Academy Drive and share a property line with Sam and Jun Hurt who live at 1209 Newning Ave. We have been aware that there is a 2-story structure in the back of their property that Sam and Jun use for storage and an art studio. Sam and Jun have informed us that when it was originally built in the late 1980's, it was built such that it encroaches on the back building set-back line of their property by approximately 4', and is thus closer to the back property line than is allowed with current single family zoning.

We are writing to state that we have no objection to your board granting Sam and Jun Hurt a special exception variance for their structure encroaching on the back building set-back line. The structure was built before we moved to our house at 509 Academy Drive and it has not been in any way an encumbrance on our lives. The Hurts are conscientious and community minded neighbors.

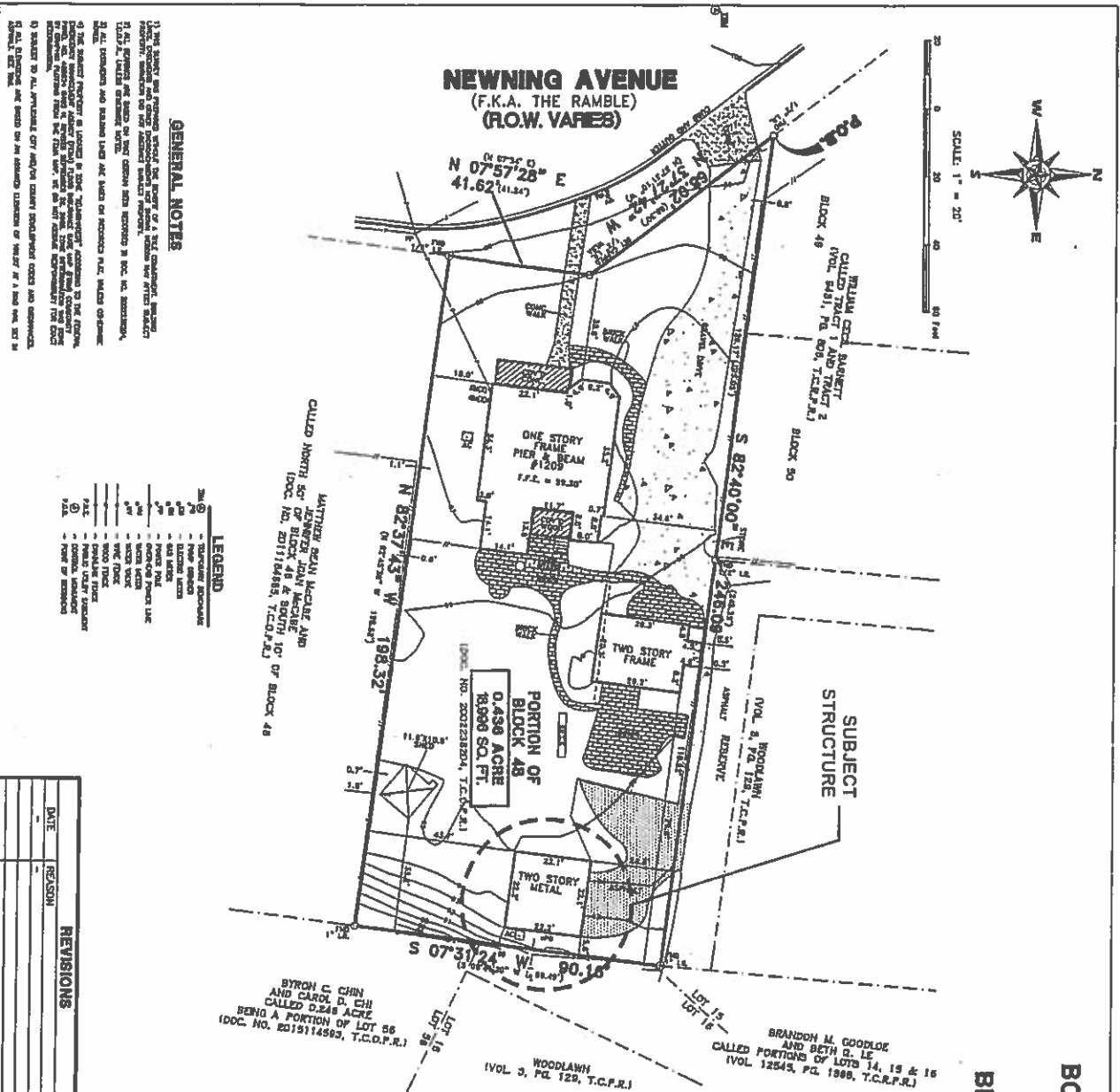
Sincerely,

Donny and Amy Cooper



3-23-16

51
24



BOUNDARY AND TOPOGRAPHICAL
SURVEY OF
0.436 ACRE 18,996 SQ. FT.
BEING A PORTION OF BLOCK 48
FAIRFIELD PARK ADDITION
VOLUME 1, PAGE 46, T.C.P.R.
TRAVIS COUNTY, TEXAS

LEGAL DESCRIPTION

[illegible][illegible][illegible]

SPHALT RESERVE

11/13

NEW SURVEYED DISTANCE:

EXISTING 25 YR OLD

STRUCTURE TO BACK

PROPERTY LINE PER

DEC. 22, 2015

119.52'

78.9'

24.8'

ASPHALT

22.1'

5.6'

22.1'

TWO STORY METAL

22.2'

22.2'

PO

END

I.R.

90.16'

W

89.40'

20'

BRICK

PORTION OF
BLOCK 48

0.436 ACRE

152

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.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

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.

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: 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 of this case.

Case Number: C15-2016-0010, 1209 Newning Avenue

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

Public Hearing: Board of Adjustment, March 14th, 2016

JAMES J. MEADER, P.E.
Your Name (please print)

☒ I am in favor
☐ I object

518 Academy Dr 78704

Your address(es) affected by this application

Signature

Date

Daytime Telephone: 512-971-1974

Comments:

Comments should be returned by noon the day of the hearing by either (comments received after noon will not be seen by the Board at this hearing):

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(comments postmarked TH prior to the hearing or later may not be received timely)

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov

TH

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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- 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.

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Case Number: C15-2016-0010, 1209 Newning Avenue
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, March 14th, 2016

Bruce E. Mercier
Your Name (please print) ☒ I am in favor ☐ I object

517-A Stacy Ln Austin 78704
Your address(es) affected by this application

[Signature] EMH 3/3/16
Signature Date

Daytime Telephone: 513-266-6408

Comments: _____

Comments should be returned by noon the day of the hearing by either (comments received after noon will not be seen by the Board at this hearing):

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088

(comments postmarked TH prior to the hearing or later may not be received timely)

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov

