

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet  
Special Exception  
Item 5**

**DATE: Monday November 13, 2023**

**CASE NUMBER: C15-2023-0044**

☐ Y ☐ Thomas Ates (D1)  
☐ - ☐ VACANT (D2)  
☐ Y ☐ Jessica Cohen (D3)  
☐ Y ☐ Yung-ju Kim (D4)  
☐ Y ☐ Melissa Hawthorne (D5)  
☐ Y ☐ Jeffery Bowen (D6)  
☐ - ☐ Janel Venzant (D7) OUT  
☐ Y ☐ Margaret Shahrestani (D8)  
☐ Y ☐ Brian Poteet (D9)  
☐ Y ☐ Michael Von Ohlen (D10)  
☐ Y ☐ Marcel Gutierrez-Garza (M)  
☐ - ☐ Kelly Blume (Alternate) (M)  
☐ Y ☐ Suzanne Valentine (Alternate) (M)  
☐ - ☐ VACANT (Alternate) (M)

**OWNER/APPLICANT: Bruce David Johnson**

**ADDRESS: 1904 EVA ST**

**VARIANCE REQUESTED:** The applicant is requesting a Special Exception variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from two setback requirements:

to decrease the front yard setback from 25 feet (required) to 0 feet (requested) in order to maintain a covered concrete patio **and** to decrease the minimum interior side yards setbacks from 5 feet (required) to 0 feet (requested – north and south sides) in order to maintain a storage shed, art studio, & garage (south side) and storage sheds (north side) that have existed for over 31 years in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan Zoning District (Bouldin Creek Neighborhood Plan).

**BOARD’S DECISION:** The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postpone to December 11, 2023; Vice-Chair Melissa Hawthorne seconds on 10-0 votes; POSTPONED TO DECEMBER 11, 2023.

**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:

A handwritten signature in black ink, reading "Elaine Ramirez", written over a horizontal line.

Elaine Ramirez  
Executive Liaison

A handwritten signature in black ink, reading "Diana A. Ramirez", followed by the word "for", written over a horizontal line.

Jessica Cohen  
Madam Chair



## SPECIAL EXCEPTION INSPECTION



<b>Address:</b>	1904 Eva St
<b>Permit Number:</b>	2023-095374 / C15-2023-0044
<b>Property Owner Requesting Special Exception:</b>	David Bruce Johnson Jr

**Special Exception Requested:**

Unpermitted front covered patio and carport encroaching front yard setback.

Unpermitted storage shed, art studio, & garage (south side) and storage sheds (north side) encroaching into interior side setbacks

**Date Structure was originally constructed:** COA, GIS identified to exist in 1997

<b>Date of Inspection:</b>	11/17/23
<b>Building Official or designated representative</b>	Joey Martinez
	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. Structure not stable, shifting has occurred.</li> <li>2. Stairs not to code compliant.</li> <li>3. Woodshed not structurally sound.</li> <li>4. Pole barn, 2x8 rafters over span.</li> </ol>

# BOA GENERAL REVIEW COVERSHEET

## SPECIAL EXCEPTION

**CASE:** C15-2023-0044**BOA DATE:** November 13<sup>th</sup>, 2023**ADDRESS:** 1904 Eva St**COUNCIL DISTRICT:** 3**OWNER:** Bruce David Johnson Jr**AGENT:** N/A**ZONING:** SF-3-NP (Bouldin Creek)**LEGAL DESCRIPTION:** LOT 3 BLK 36 SWEETMAN R L ADDN**VARIANCE REQUEST:** a) to decrease the front yard setback from 25 feet to 0 feet in order to maintain a covered concrete patio **and**

b) to decrease the minimum interior side yards setbacks from 5 feet to 0 feet in order to maintain a storage shed, art studio, &amp; garage (south side) and storage sheds (north side)

**SUMMARY:** maintain structures built in the setbacks**ISSUES:** these structures have existed for over 31 years

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	SF-3-NP	Single-Family
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	SF-3-NP	Single-Family

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

Bouldin Creek Neighborhood Association

Bouldin Creek Neighborhood Plan Contact Team

Bouldin Creek Zoning Committee

Friends of Austin Neighborhoods

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

Preservation Austin

SELTexas

South Central Coalition





November 1, 2023

Bruce David Johnson  
1904 Eva St  
Austin TX, 78704

Property Description: LOT 3 BLK 36 SWEETMAN R L ADDN

**Re: C15-2023-0044**

Dear Bruce David,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance request from LDC Section 25-2-492 at 1904 Eva St.

**Austin Energy does not oppose the request**, provided that any proposed or existing improvements follow Austin Energy's Clearance & Safety Criteria, the National Electric Safety Code, and OSHA requirements. Any removal or relocation of existing facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

[https://library.municode.com/tx/austin/codes/utilities\\_criteria\\_manual?nodeId=S1AUENDECR\\_1.10.0CLSARE](https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE)

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

**Cody Shook, Planner III**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6881  
[Cody.Shook@austinenergy.com](mailto:Cody.Shook@austinenergy.com)



# CITY OF AUSTIN

## Development Services Department

Permitting & Development Center

Phone: 512.978.4000

6310 Wilhelmina Delco Dr, Austin, Texas 78752

ITEM07/6

## **SPECIAL EXCEPTION** **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 # **C15-2023-0044** ROW # **13219512** Tax # **0402010703**

### **Section 1: Applicant Statement**

Street Address: 1904 Eva

Subdivision Legal Description:

LOT 3 BLK 36 SWEETMAN R L ADDN

Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: 78704 **SF-3-NP (Bouldin Creek NP)** **Council District: 3**

I/We Bruce David Johnson, Jr. on behalf of myself/ourselves as  
authorized agent for \_\_\_\_\_ affirm that on

Month June , Day 5 , Year 2023 , hereby apply for a hearing before the

Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: Setback

Type of Structure: Storage shed & studio & garage (south side); storage sheds (north side)

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

Special Exception LDC 25-2-492 from interior side setbacks of 5 feet to 0 feet (north & south sides)

## 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.

**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.**

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:

LDC 25-2-493 from interior side setbacks of 5 feet to 0 feet on the north and south sides

### Hardship

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

These structures have existed for over 31 years, without incident. I have gotten a Life and Safety Permit and Passed the inspection, and, was sent the Report, the Certificate of Occupancy, because the structures are sound and safe.

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

These structures have existed for over 31 years without incident.

**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:

It has existed for 31 years without incident.

**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:

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:

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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:

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

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

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### 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: BDJ Date: Sep 20, 2023

Applicant Name (typed or printed): Bruce David Johnson, Jr

Applicant Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): [REDACTED]

Email (optional – will be public information): [REDACTED]

### 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: BDJ Date: Sept 20 2023

Owner Name (typed or printed): Bruce David Johnson, Jr.

Owner Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): [REDACTED]

Email (optional – will be public information): [REDACTED]

### Section 5: Agent Information

Agent Name: \_\_\_\_\_

Agent Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): \_\_\_\_\_

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).

I seek the Special Exception Variance for these structures on my property:

\* the open shed on the north midline (see Survey and photos of lot)

\* the open shed on the north rear line

\* the garage on the south rear line

**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, 2017;

(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*).



ITEM07/11

# City of Austin

## CERTIFICATE OF OCCUPANCY

**BUILDING PERMIT NO** 2023-095374 BP

**ISSUE DATE :** 09/19/2023

**BUILDING ADDRESS:** 1904 EVA ST

**LEGAL DESCRIPTION:** LOT 3 BLK 36 SWEETMAN R L ADDN

**PROPOSED OCCUPANCY:**

R- 435 Renovations/Remodel Life Safety - Special Exception Variance for setback encroachments that have existed more than 25 years without issues. Wood frame & metal workshop, wood shed and covered patio on dirt, and wood frame over concrete blocks. Expired Permit Number: 1985 027643 BP

**BUILDING GROUP/DIVISION:**

**SPRINKLER SYSTEM:**

**CODE YEAR:**

**CODE TYPE:**

**FIXED OCCUPANCY:**

**NON FIXED OCCUPANCY:**

**TYPE OF CONSTRUCTION:**

**CONTRACTOR:** Johnson BruceDavid BDJLMP

\*\*\*\*\* **CERTIFICATE OF OCCUPANCY** \*\*\*\*\*

**THIS IS TO CERTIFY THAT THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED ABOVE HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF THE AUSTIN CITY CODE FOR THE GROUP AND DIVISION OF OCCUPANCY LISTED ABOVE.**

NEITHER THE ISSUANCE OF THIS CERTIFICATE NOR THE INSPECTIONS MADE SHALL LESSEN THE RESPONSIBILITY OR LIABILITY OF ANY PERSON, FIRM OR CORPORATION

OWNING, OPERATING, CONTROLLING OR INSTALLING ANY APPLIANCE OR MATERIAL UPON THE PREMISE, OR DOING ANY WORK WHATSOEVER ON SUCH PREMISE.

THE CITY OF AUSTIN DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY BY REASON OF THE INSPECTION OR REINSPECTION OF THE PREMISE; OR THE ISSUANCE OF THIS "CERTIFICATE OF OCCUPANCY"; OR BY ANY REASON OF ANY APPROVAL OR DISAPPROVAL.

**BUILDING CODE REVIEWER :**



**For Todd Wilcox, Building  
Official**



1904 EVA STREET

SURVEY OF LOT 3, BLOCK 36, PLAT OF R.L. SWEETMAN'S ADDITION  
BLOCKS 35,36,B5,B6,B7 A SUBDIVISION RECORDED IN VOL. 1, PG. 58,  
PLAT RECORDS, TRAVIS COUNTY, TEXAS.

1" = 20'



11/36

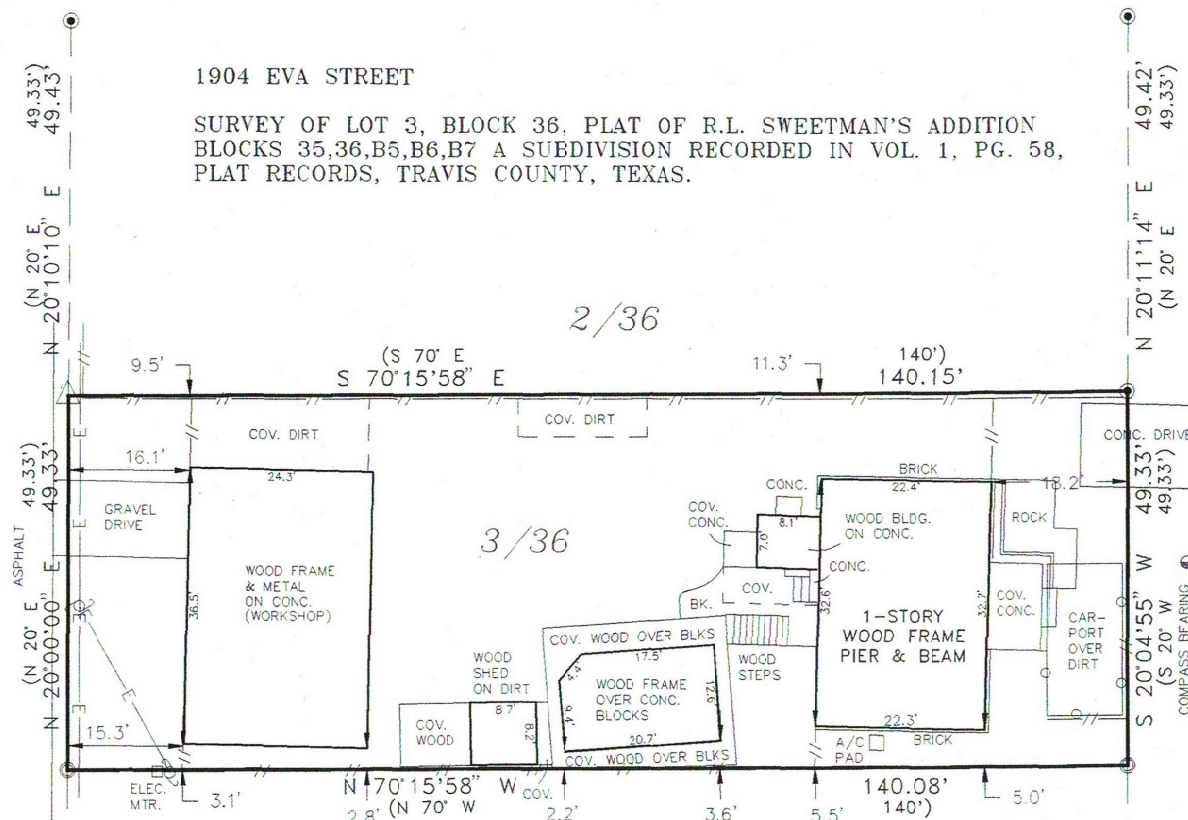
10/36

9/36

2/36

3/36

4/36



IMPERVIOUS COVER IN SQ. FT.:

HOUSE - 727

WORKSHOP - 887

WOOD BLDG. - 256

DECK @ BLDG. - 206

WOOD STEPS - 32

WOOD BLDG. ON CONC. - 56

WOOD SHED - 71

OVERHANG AT SHED - 92

GRAVEL DRIVE @ WORKSHOP - 160

OVER-HANG @ WORKSHOP - 220

OVER-HANG @ FENCE - 85

CONC., COV. CONC., BRICK & CONC. STEPS - 142

BRICK @ HOUSE - 28

COV. CONC. PORCH - 82

CARPORT - 200

ROCK @ CARPORT - 87

A/C - 4

CONC. DRIVE - 68

TOTAL - 3403

LAND - 6912

3403/6912 = 49.2%

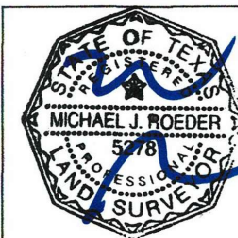
## LEGEND

- 1/2" IRON PIN FOUND
- 1/2" IRON PIN SET
- △ IRON SPIKE FOUND
- POWER POLE
- WATER METER
- WOOD FENCE
- CHAIN LINK FENCE
- OVERHEAD TELEPHONE LINE(S)
- OVERHEAD ELECTRIC LINE(S)
- ( ) RECORD INFORMATION

23-18

The property shown hereon is located in  
Zone "X": areas outside the 500 year  
floodplain as shown on Community Panel  
Number 480624 0585 H of the FLOOD  
INSURANCE RATE MAP prepared for the  
City of Austin by the Federal Insurance  
Administration Department, H.U.D.  
Effective Date: 9-26-08

NOTE:  
NO TITLE COMMITMENT FURNISHED.  
EASEMENTS SHOWN PER PLAT.



DATE: 5-04-2023

ROEDER  
SURVEYING

ROEDER SURVEYING L.L.C.  
3705 VINELAND DRIVE  
AUSTIN, TEXAS 78722  
(512) 478-7673  
FIRM #10094400





October 10, 2023

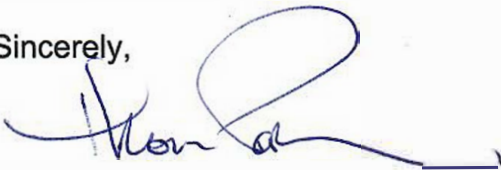
To the Board of Adjustment:

The Bouldin Creek Neighborhood Association (BCNA) supports the applicant's Special Exception Variance request at 1904 Eva St., Case # C15-2023-0044.

The applicant has reached out to the neighborhood zoning committee as well as adjacent neighbors, with their plans.

The BCNA has considered the applicant's case and supports this Special Exception Variance request.

Sincerely,



Thom Parker, President  
Bouldin Creek Neighborhood Association

**From:** [REDACTED]  
**To:** [Ramirez, Elaine](#)  
**Cc:** [REDACTED]  
**Subject:** Submission re. variance request C15-2023-0044/1904 Eva St  
**Date:** Sunday, October 29, 2023 9:44:33 PM

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[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

External Email - Exercise Caution

Dear Ms. Ramirez,

Regarding case number C15-2023-0044, I can confirm that the cited structure at 1904 Eva St was built shortly after Bruce David Johnson and I married in February 1985. I can also confirm that the structure was intact when I purchased and moved to my current residence on Nickerson St in July 1993 as a precursor to our divorce, which was finalized in March 1994.

Feel free to contact me if you have any related questions.

Best regards,  
Dorothy (Dottie) Wood  
2102 Nickerson St  
Austin, TX 78704  
[REDACTED]

Sent from my iPhone

CAUTION: This is an EXTERNAL email. Please use caution when clicking links or opening attachments. If you believe this to be a malicious or phishing email, please report it using the "Report Message" button in Outlook or forward to [cybersecurity@austintexas.gov](mailto:cybersecurity@austintexas.gov).

## 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 development or change. 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 is required.

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](http://www.austintexas.gov/devservices).

ITEM07/15

Written comments must be submitted to the contact person listed on the notice before 9 a.m. the day of the public hearing to be added to the Late Back-up and viewed by the Board the night of the meeting. 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: C15-2023-0044**

**Contact:** Elaine Ramirez; [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

**Public Hearing:** Board of Adjustment; November 13<sup>th</sup>, 2023

KIT MORRIS

Your Name (please print)

308 W. Johanna St.

Your address(es) affected by this application

*[Signature]*

Signature

☒ I am in favor  
☐ I object

11/5/23  
Date

Daytime Telephone: [REDACTED]

Comments: Mr. Johnson has had his house aranged in his manner for 25 years, maybe more. (I have been here since 2000) I support letting the old timers keep their stuff how they had it and reject the newbies coming in and telling them they have to re-do their things!

**If you will be using this form to comment, please return it via e-mail to:**

Elaine Ramirez; 512-974-2202

Scan & Email to: [Elaine.Ramirez@austintexas.gov](mailto:Elaine.Ramirez@austintexas.gov)



From: [REDACTED]  
Subject: [REDACTED]  
Date: Mon, October 12, 2020 12:29 PM

You can't deliver your email from david@chick.com. [david@chick.com](mailto:david@chick.com)

External Email - Exercise Caution

Elaine,

I'm writing you with my concerns to the variance that David Bruce Johnson is pursuing on unpermitted buildings built within the setbacks in his back yard.

Not only are building encroaching on both 1902 and 1906 Eva Street properties, I believe an inspection will show how unsafe the buildings are. Bruce continues to deny it's inhabited but there is someone living above the garage building. I can provide video proof if needed. I am the owner of the adjacent property at 1902 Eva St. These buildings are in disrepair and a completely unsafe structures that is currently being used as an apartment. He also has a number of covered structures that border my property that are built on the property line.

He has gone around the neighborhood with a petition. However, there are only four properties that lived in by the owner. I own two of these houses (1902 & 1907). His petition is all the tenants not owners of the property. It is not fair that I have to live next to these dilapidated buildings.

Please let me know what I need to do to fight against a variance for the building that he put up illegally.

Thank you

David Chick











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