

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
Special Exception
ITEM07

DATE: Monday December 11, 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)
 Y Janel Venzant (D7)
 N Margaret Shahrestani (D8)
 Y Brian Poteet (D9)
 Y Michael Von Ohlen (D10)
 Y Marcel Gutierrez-Garza (M)
 - Kelly Blume (Alternate) (M)
 - 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. December 11, 2023 The public hearing was closed by Madam Chair Jessica Cohen, Board member Melissa Hawthorne motions to approve with condition that the front carport be removed; Board member Jessica Cohen seconds on 9-1 (Board member Maggie Shahrestani nay) votes; GRANTED WITH CONDITION THAT THE FRONT CARPORT BE REMOVED.**

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:

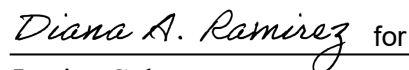
- (1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;
- (2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; **and**
- (3) may not authorize 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*).

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126; [Ord. No. 20160519-057, Pt. 2, 5-30-16](#)


Elaine Ramirez

Executive Liaison

 for

Jessica Cohen
Madam Chair