

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

**DATE: Monday, July 11, 2011**

**CASE NUMBER: C15-2011-0079**

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Nora Salinas  
\_\_\_\_ Bryan King  
\_\_\_\_ Leane Heldenfels, Chairman  
\_\_\_\_ Clarke Hammond, Vice Chairman  
\_\_\_\_ Heidi Goebel

**OWNER/APPLICANT: KRISTIN KAVANAGH and NATHAN JOHNSON**

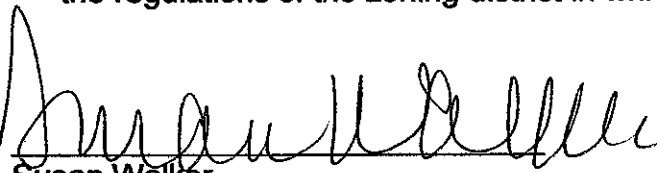
**ADDRESS: 4804 BROKEN BOW PASS**

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum side yard setback along the east and west property lines in order to maintain an accessory structure along each side yard property line for a single family residence in an "SF-3", Family Residence zoning district.

**BOARD'S DECISION: POSTPONED TO AUGUST 8, 2011 DUE TO NOTIFICATION/POSTING ERROR**

**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:

  
\_\_\_\_\_  
Susan Walker  
Executive Liaison

  
\_\_\_\_\_  
Leane Heldenfels  
Chairman

**Walker, Susan**

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**From:** Jess McAngus [jmcangus@spiritenv.com]  
**Sent:** Friday, July 08, 2011 5:19 PM  
**To:** Walker, Susan  
**Subject:** Case Number C15-2011-0079, Board of Adjustment, Public Hearing July 11, 2011.  
**Attachments:** Protest - C15-2011-0079.pdf

Dear Ms. Walker;

My name is Jess McAngus and I own a home located at 4611 Arapahoe Trail, Austin, Texas 78745. This house is located across Williamson Creek and within 500 feet of the applicants Nathan Johnson and Kristin Kavanagh in Case# C15-2011-0079. A public hearing is scheduled for Monday, July 11, 2011. I **object** to the granting of this General Variance/Parking Variance.

The two stand-alone buildings which were placed in violation of the City of Austin are an "eye sore" to my view from my back yard. These buildings may not be clearly visible from the applicants street (Broken Bow Pass) but are in clear view from my house.

These applicants have over the years systemically damaged Williamson Creek by lowering the level in the creek. The applicants have dredged and removed creek bottoms and rocks from the creek and have dug channels to drain and lower the level in the creek by about three feet (3'). These illegal actions have:

- damaged associated wetlands;
- caused the upstream creek banks to dry out and fall into the creek;
- reduced the volume of water in the creek and likely reduced the numbers of aquatic life; and
- reduced the property values of all properties located upstream of this body of water.

I would like for the City of Austin to:

1. deny approval of this variance; and
2. require the applicants to restore the Williamson Creek to its former water level.

Thank you for your consideration of these comments. I have attached the comment form I received to this email.

**Jess McAngus, P.E.**  
Spirit Environmental, LLC  
17350 State Highway 249  
Suite 249  
Houston, TX 77064  
281-664-2810 (direct)  
713-824-9637 (cell)  
[JMcAngus@SpiritEnv.com](mailto:JMcAngus@SpiritEnv.com)

## PUBLIC HEARING INFORMATION

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- 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.

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**Case Number: C15-2011-0079 -- 4804 Broken Bow Pass**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, July 11th, 2011**

*David Arms*

Your Name (please print)

*4906 Broken Bow Pass Austin TX 78745*

Your address(es) affected by this application

*9/10/2011*

Date

Signature

Daytime Telephone: *(512) 442-8140*

Comments: *I am in favor of granting these people their variance to decrease the minimum size of the setback distance for the sheds in question. Their sheds not only do not degrade the appearance of the lot but of their neighbors and given the grade & shape of their lot and the presence of a large tree there is no other place on their property where the sheds could be built or moved to. To deny this variance would in effect deny Nathan & Kristina the right to have any sheds on their property at all.*

If you use this form to comment, it may be returned to:

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

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

I am in favor of granting these people their variance to decrease the minimum size of the setback distance for the sheds in question. Their sheds not only do not degrade the appearance of the property nor that of their neighbors and given the grade & shape of their lot and the presence of a very large tree, there is no other place on their property where the sheds could be built or moved to. To deny this variance would in effect deny Nathan & Kristin the right to have any sheds on their property at all.

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**Contact:** Susan Walker, 512-974-2202  
**Public Hearing:** Board of Adjustment, July 11th, 2011

Thomas Moller

Your Name (please print)

☒ I am in favor  
☐ I object

4800 Broken Bow Pass 78745

Your address(es) affected by this application

*[Signature]*

Signature

7/2/2011

Date

Daytime Telephone: 512 626-7802

Comments:

**If you use this form to comment, it may be returned to:**  
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 Susan Walker  
 P. O. Box 1088  
 Austin, TX 78767-1088

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**Contact:** Susan Walker, 512-974-2202  
**Public Hearing:** Board of Adjustment, July 11th, 2011

Jess A. McAngus, P.E.

Your Name (please print)

☐ I am in favor  
☒ I object

4611 Arapahoe Trail, Austin, Texas 78745

Your address(es) affected by this application

July 8, 2011

Signature

Date

Daytime Telephone: 713-824-9637 (cell)

Comments: I live across the creek from this applicant. The storage buildings are ugly and seemed to be used for commercial purposes. This homeowner has also over the years, has systematically lowered the level of Williamson Creek, by removing creek bottoms and rocks, and digging channels in the creek bed to drain and lower the creek level. This has damaged the creek upstream of the homeowner, lowered the volume of the creek, damaged associated wetlands, and reduced the value of our property. I object to these illegal building and also request that the owner be required to return the creek to it's historical level.

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 Susan Walker  
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**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, July 11th, 2011**

*Toni Wilcox*

Your Name (please print)

*4801 Broken Bow Pass*

Your address(es) affected by this application

*Dani Wilcox*

Signature

*7-7-11*

Date

Daytime Telephone: *416-7969*

Comments:

☒ I am in favor

☐ I object

If you use this form to comment, it may be returned to:

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, July 11th, 2011

NORMAN PARKER

Your Name (please print)

☐ I am in favor  
☒ I object

4017 ABARATHE TRL

Your address(es) affected by this application

Norman Parker

Signature

7/8/2011  
Date

Daytime Telephone: 947-6532

Comments: STRUCTURES WERE BUILT KNOWLEDGE WITH-  
OUT A BUILDING PERMIT AND NOT COMPLYING WITH  
CODES & ORDINANCES. WHAT OTHER PERMITTING  
INFRACTIONS BEGINS SET BACK MAY EXIST, I.E.,  
BUILDING IN A FLOOD PLAIN, TYPE OF ACCESSORY USE  
NOT PERMITTED OR ALLOWED IN SF-3 - STRUCTURES  
ARE USED AS A CONSTRUCTION YARD. ALSO, FIRE-  
CODE CONCERN DUE TO SIDEYARD SET BACK EN-  
DOACHMENT.

If you use this form to comment, it may be returned to:

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, July 11th, 2011

*A.M. Gicbelstein*

Your Name (please print)

☐ I am in favor  
☒ I object

*4714 Roundup Tr.*

Your address(es) affected by this application

*A.M. Gicbelstein*

Signature

Date

Daytime Telephone:

*447-4365*

Comments:

*The variance should not be*

*approved, as the zoning laws are on the books for a purpose i.e. fire protection privacy reasons.*

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**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, July 11th, 2011**

*Jacqueline Roberson*

Your Name (please print)

*2304 Cheyenne Cir.*

Your address(es) affected by this application

*Jacqueline Roberson*

Signature

*July 04, 2011*

Daytime Telephone: *444-2534*

Comments:

☒ I am in favor  
☐ I object

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**Contact:** Susan Walker, 512-974-2202

**Public Hearing:** Board of Adjustment, July 11th, 2011

*Your Name (please print)*

William Stewart

☐ I am in favor  
☒ I object

*Your address(es) affected by this application*

4613 Apache Trail

*Signature*

*Date*

**Daytime Telephone:**

512. 444. 8110

07.06.11

**Comments:**

Mr. Johnson has repeatedly said that he "can do whatever he wants on his property," I believe that he is aware of offset rules and simply ignored them. The business use of the structures is not mitigated. I have to look at his backyard.

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, July 11th, 2011

LEWIS JACKSON

Your Name (please print)

☐ I am in favor  
☒ I object

4609 ARAPAHOE TRL

Your address(es) affected by this application

*Susan Walker*

Signature

3-7-11

Date

Daytime Telephone: 442-4494

Comments: DID HE PAY TAXES

ON THE BUILDINGS?

If you use this form to comment, it may be returned to:

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Susan Walker

P. O. Box 1088

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Written comments must be submitted to the board or commission (or 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.

Case Number: C15-2011-0079 - 4804 Broken Bow Pass

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, July 11th, 2011

Johnny F. Zapala  
Your Name (please print)

☒ I am in favor  
☐ I object

4804 Broken Bow Pass  
Your address(es) affected by this application

4804 Broken Bow Pass  
Your address(es) affected by this application

Johnny F. Zapala 7-9-11  
Signature Date

Daytime Telephone: 441-8292

Comments:

See attachment.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

June 21, 2011  
Austin, Texas

To Whom It May Concern

Approximately six years ago while the Johnsons were in Hawaii on vacation and I was in Colorado building a cabin Mr Johnson had hired a young man to build a storeroom. We had discussed the location and it was fine with me. While back in Austin on a three day trip in September I noticed the storeroom was up and dried in. I met the young man the day before I left and question his location at the property line. He stated he followed the line of the house. I advised him the house does not sit in a straight line as the lot is pie shape and is at a angle. He just stated that is where he was suppose to build it. I recommended he attempt to call Mr Johnson in Hawaii and I left for Colorado. I returned to Austin in late October of 2005 and Mr Johnson and I discussed the storeroom location as being over the property line. I told Mr Johnson that I do not have a problem with this matter, but if I should see my property first or he should sell his it would be his responsibility to relocate the storeroom and repair the fence. We both agreed on a handshake.

We have received letter from the US Corp of Engineers that they will condemn our properties and buy 32 houses on the creek in the future in regard to the Williamson Creek Watershed

solution. As such I do not have any  
quarrels with his storeroom location, but I  
do think the City of Austin does need to tell  
the five families across the creek to mind  
their own business, resolve their own problems  
of compliance and act like Austin Citizens.

Johnny + Zapalae  
4806 Broken Bow Lane  
Austin, Texas 78745  
512-441-8292

## 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.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the board or commission (or 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.

Case Number: C15-2011-0079 - 4804 Broken Bow Pass

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, July 11th, 2011

DANIEL KENT

Your Name (please print)

4613 PACE STADAE PASS

Your address(es) affected by this application

Daniel Kent

Signature

7/6/11

Date

Daytime Telephone:

512-431-6313

Comments:

I BELIEVE THE SPECIMENS IN QUESTION ENCOUNTER ON THE SECTIONS AND WERE NOT EVEN FORMED AND THE NEIGHBORS PROPERTY. IT SEEMS TO CLARIFY THE CURRENT "ACCESS" AND THE AREA WOULD SHOW THERE ARE A NEW. IT ALSO ENCOUNTERS ON THE NEIGHBORS SETBACKS OR THE PROPERTY.

If you use this form to comment, it may be returned to:

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

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

☐ I am in favor  
☒ I object

please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # C15-2011-0079  
ROW-10606214  
TP-0410111634

CITY OF AUSTIN  
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: 4804 Broken Bow Pass, Austin, TX 78745

LEGAL DESCRIPTION: Subdivision - Western Trails Estates

Lot(s) 21 Block A Outlot Division

We Nathan Johnson & Kristin Kavanagh  
on behalf of ourselves as authorized agent for

affirm that on

hereby apply for a hearing before the Board of Adjustment for consideration to:

☐ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☒ MAINTAIN

An accessory structure with a side yard set back of 0-2 feet.

0' from west p.l.  
& last

in a SF-3 district.  
(zoning district)

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. Please contact Lena Lund with Austin Energy at 322-6587 before filing your application with the Board of Adjustment if your request is for a reduction in setbacks or height limits.

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):

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because: All of our property is in the flood plain and two thirds of our property is on land lower than the level the house is on and even with Williamson Creek so we're unable to place any structure within this area. There is also a public utility & drainage easement in this area. The house is set well back from the required 25 ft. setback which makes the useable back yard even smaller.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: Our house is situated on the lot with the garage in back and driveway along side of and in back of the house. We also have 4 large trees running along on the top of the hill behind the house planted by the original owner where a storage shed could otherwise be placed.

- a. The hardship is not general to the area in which the property is located because: most homes in the area have the garage in the front or side of the house leaving plenty of room in the back to place a storage shed. All of the homes not located on the creek are on level lots giving them full use of their back yards.

#### **AREA CHARACTER:**

1. 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 shed is not in close proximity to the neighbors house. Our neighbors have full use of their backyard and enjoy a degree of privacy provided by the storage shed. The location of the shed is in the back side yard and in no way interferes with the character of the street.

#### **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:

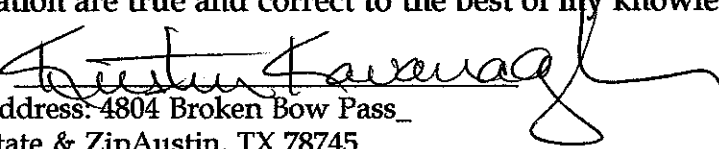
1. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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

1. 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: 4804 Broken Bow Pass\_  
City, State & Zip Austin, TX 78745

Printed \_\_\_\_\_ Phone 512.326.4066  
Date \_\_\_\_\_

**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  Mail Address \_\_\_\_\_

City, State & Zip \_\_\_\_\_

Printed \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

#### **GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT**

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

#### **VARIANCE REQUIREMENTS:**

##### **General Requirements:**

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

##### **Required Findings:**

The Board of Adjustment is also required to make findings discussed below in order to grant a variance. Applicants must provide the Board with proposed findings.

#### **SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)**

1. A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
2. A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
3. A tax plat with subject property clearly marked indicating property within a 300-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9138).
4. Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
5. Other Information - Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the



SUBJECT TRACT



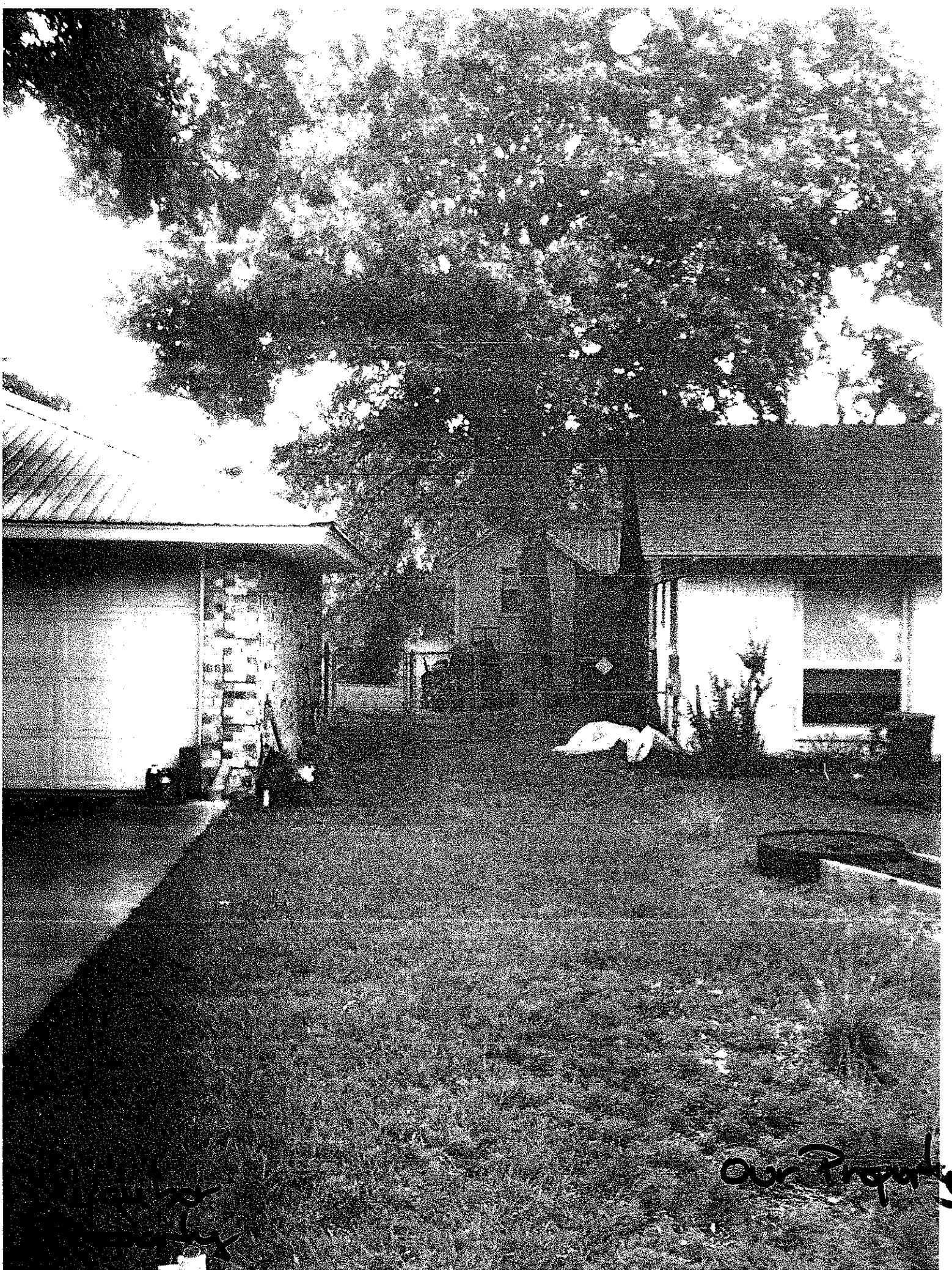
ZONING BOUNDARY

## BOARD OF ADJUSTMENTS

CASE#: C15-2011-0079  
LOCATION: 4804 BROKEN BOW PASS  
GRID: F18  
MANAGER: SUSAN WALKER



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Our Property

4360 S. CONGRESS AVENUE  
SUITE 108  
AUSTIN, TEXAS 78745



MICHAEL SAIFON R.P.L.S. 3693

THIS IS NOT A SURVEY OF THE LAND, BUT  
IS COMPILED FOR INFORMATION ONLY  
FROM DATA SHOWN BY OFFICIAL RECORDS

