
Zoning Board of Adjustment

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: October 20, 2026

SUBJECT:

1189 Barberry Drive (Case VAR26-015): Hold a public hearing and consider and take possible action on a variance to Burleson Code Of Ordinances, Appendix B, Zoning Regulations, Section 132-115(c)(1) *Accessory building and structure yard regulations, rear yard*, to allow an accessory structure in the rear yard that exceeds the fifty percent coverage limitation. (Staff Contact: Brian Campbell, Senior Planner, Development Services)

STRATEGIC PRIORITY AND GOAL(S):

Strategic Priority	Strategic Goal
 Dynamic & Preferred City Through Managed Growth	2.2 Promote sustainable residential and commercial development through strategic and long-term planning

SUMMARY:

Mr. Blessie is submitting this variance request to allow an existing accessory structure (patio cover) to remain in place. The timeline below summarizes all events leading to this request:

- **10/4/2024:** Staff receives email from a neighboring property expressing concern regarding the location of the patio cover and whether it was permitted.
- **10/14/2024:** Mr. Blessie submits accessory structure permit for patio cover via email.
- **10/15/2024:** Review comments sent to Mr. Blessie.
- **10/16/2024:** Mr. Blessie responds with questions and staff responds.
- **5/2/2025:** Code Enforcement notified that patio cover has been constructed without an approved permit.

- **6/4/2025:** Staff again followed up with Mr. Blessie.
- **6/25/2025:** Staff again followed up with Mr. Blessie, informing him that further enforcement action would be taken unless steps to remedy the situation were taken.
- **9/26/2025:** Mr. Blessie replies, agreeing to pay the enforcement fine.
- **10/15/2025 – 4/20/26:** Further enforcement action taken against Mr. Blessing due to inaction.
- **4/20/2026:** Staff receives email from Mr. Blessie's attorney.
- **8/3/2026:** Mr. Blessie applies for variance.

STAFF INTERPERTATION AND FINDINGS:

The structure has been found to be non-conforming by staff based on the following findings:

- *Detached accessory buildings shall be located in the area defined as the rear yard of the lot. Sec 132-115(c)(1), Appendix B, Code of Ordinances:*
 - *There shall be a rear yard for accessory buildings or structures of not less than three feet measured from the lot line. In residential districts, the main building and all accessory buildings shall not cover more than 50 percent of that portion of the lot lying to the rear of a line joining the midpoint of one side lot line with the midpoint of the opposite side lot line.*
- A Rear Yard is defined in Section 50-105, Appendix B, Code of Ordinances as:
 - **Yard, Rear.** *A yard, extending across the rear of a lot between the side lot lines, having a depth between the building and the rear lot line as specified in the district in which the lot is situated.*
- *Detached accessory buildings shall be located in the area defined as the side yard of the lot. Sec 132-115(b), Appendix B, Code of Ordinances:*
 - *A side yard of three feet shall be maintained for any accessory building or structure located in a residential district as measured from the side lot line; except that adjacent to a side street the accessory building side yard shall be not less than ten feet and a garage or carport entered from and opening onto the side shall provide a side yard of not less than 20 feet.*
- A Side Yard is defined in Section 50-105, Appendix B, Code of Ordinances as:
 - **Yard, Side.** *An open, unoccupied space on a lot, which is located between the setback line and the side lot line. The side yard shall extend the full length of the lot. Between the front and rear yards. (For purposes of this definition, any lot line not deemed the rear lot line or the front lot line shall be deemed a side line.)*

- Burleson Code of Ordinances Section 11-115 articulates the Powers of the board.

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(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance as amended.

(2) To hear and decide variances and special exceptions to the terms and of this ordinance as required under the ordinance.

(3) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(4) Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by the building, and the addition of off-street parking or off-street loading to a nonconforming use.

(b) In exercising the its powers the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(c) The board may permit such variance or modifications of the height, yard, area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape or slope that it cannot be appropriately developed without such modification. In exercising its power to grant a variance in accordance with this ordinance, the board of adjustment shall make findings and show in its minutes that:

(1) There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and the same zoning district.

(2) That a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed, under the ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.

(3) That the granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the comprehensive plan of the city.

(4) That the variance, if granted, will not be materially detrimental to the public welfare or the use, enjoyment, or value of property in the vicinity.

(d) The board may require the discontinuance of nonconforming uses of land or buildings under any plan whereby the full value of the buildings and facilities can be amortized within definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected when considered in the light of the public welfare and the character of the

area surrounding the designated nonconforming use and the conservation and preservation of the property. The board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the city.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

REFERENCE:

[City of Burleson, TX ZONING DISTRICTS](#)

FISCAL IMPACT:

None.

STAFF CONTACT:

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Exhibit A: Johnson County Appraisal District (JCAD) Property History

Property Deed History

Date	Type	Volume	Page	Number
2024-07-05	WARRANTY D	—	—	76028

Exhibit B: Nearmap Aerial of Subject Property and Surrounding Area: June 5, 2024



Exhibit C: Nearmap Aerial of Subject Property and Surrounding Area: October 4, 2024



Exhibit D: Nearmap Aerial of Subject Property and Surrounding Area: May 9, 2026

