

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
March 21, 2016**

Members Present:

Mary Rogers
Frank Quijano
Alan Neff
George Britton
Maria Cruz
Jesse Zuniga
Christopher Garcia
John Kuderer
Roger Martinez
Gene Camargo
Henry Rodriguez

Staff:

Catherine Hernandez, Planning Manager
Logan Sparrow, Senior Planner
Margaret Pahl, Senior Planner
Kristen Flores, Planner
Paul Wendland, City Attorney

Call to Order

Pledge of Allegiance to the U.S. and Texas Flags.

Ms. Rogers, called the meeting to order and called roll of the applicants for each case.

Margaret Pahl, Senior Planner, presented the 2015 Board of Adjustment Year in Review Presentation.

CASE NO. A-16-053

Applicant – Sean Noonan
Lot 1, Block 1, NCB 16568
3835 E. Loop 1604 N
Zoning: “C-3 AHOD” General Commercial Airport Hazard Overlay District

The applicant is requesting for a 107 square foot variance from the 375 square foot maximum expressway sign area to allow an expressway sign with 482 square feet of advertising area.

Logan Sparrow, Senior Planner, presented the background information and staff's recommendation of the variances. He indicated 5 notices were mailed, 0 returned in favor, and 0 returned in opposition.

James McKnight, representative, requested the variance to allow an existing expressway sign additional space to advertise the price of gas underneath.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-053 closed.

MOTION

The motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-053, variance application for a 107 square foot variance from the 375 square foot maximum expressway sign area to allow an expressway sign with 482 square feet of advertising area, subject property description Lot 1, Block 1, NCB 16568, situated at 3835 E. Loop 1604 N., applicant being Sean Noonan.

"I move that the Board of Adjustment grant the applicant's request, because the testimony presented to us, and the facts that we have determined show that the physical character of this property is such that a literal enforcement of the provisions of the Chapter 28 Sign Code, as amended, would result in an unnecessary hardship."

Specifically, we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site in that **the proposed signage is important to allow the owner to advertise the business name**.

AND

The board finds that:

- a. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated in that; **granting this variance will permit the property owner to advertise the price of fuel at this filling station. This is a common practice and essential to the success of this business. Further, the proposed signage is not unlike that enjoyed by similar businesses and does not grant a right not enjoyed by others.**
- b. Granting the variance will not have a substantially adverse impact upon neighboring properties in that; **there is no other development around the subject property to be negatively affected by the requested variance. The request allows an addition to an existing sign, rather than the construction of an entirely new sign.**

c. Granting the variance will not substantially conflict with the stated purposes of this article in that The requested variance does not conflict with the stated purpose of this chapter as the request is a minor deviation from the requirement and provides the owner an opportunity to advertize the company's prices. Additionally, the variance will be hardly noticeable to passersby." The motion was seconded by Mr. Garcia.

AYES: Quijano, Garcia, Neff, Rodriguez, Britton, Cruz, Zuniga, Martinez, Camargo, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-046

Applicant – Mark Reynolds
Lot 159, Block 45, NCB 18745

9126 Timber Ranch

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for a special exception to allow a fence that is seven and a half feet tall on the side and rear yard of the property as described in Section 35-514.

Kristin Flores, Planner, presented the background information and staff's recommendation of the requested special exception. She indicated 28 notices were mailed, 3 returned in favor, 1 returned in opposition, and no response from the Great Northwest Neighborhood Association.

John Reynolds, representative, requested the special exception for the added height to his fence to protect his property due to the incline of the land the property and the neighboring property are built upon.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-046 closed.

MOTION

A motion was made by Mr. Rodriguez. "Regarding Appeal No. A-16-046, variance application for a special exception to allow a fence that is seven and a half (7.5) feet tall on the side and rear yard of the property, subject property description Lot 159, Block 45, NCB 18745, situated at 9126 Timber Ranch, applicant being Mark Reynolds.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

1. "The special exception will be in harmony with the spirit and purpose of the chapter" in that **the UDC allows seven and half (7.5) feet rear fences as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. If granted, this request would be harmony with the spirit and purpose of the ordinance.**
2. "The public welfare and convenience will be substantially served" in that **the public welfare and convenience can be served by the added protection of rear yard fence, allowing the owner to protect the subject property.**
3. "The neighboring property will not be substantially injured by such proposed use" in that **the rear fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.**
4. "The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought" in that: **rear fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.**
5. "The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district" in that: **the purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.** The motion was seconded by Mr. Neff.

An Amendment was made by Mr. Martinez to limit the exposed fence from the front of the street to six (6) feet, and allow the special exception of seven and a half (7.5) feet on the side and rear yard fence. The Amendment was seconded by Ms. Cruz.

AYES: Rodriguez, Neff, Quijano, Britton, Cruz, Zuniga, Garcia, Martinez, Camargo, Kuderer, Rogers

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

CASE NO. A-16-050

Applicant – Ulises Hubbard
Lot 21, Block 8, NCB 14708
10253 White Bonnet
Zoning: “RE” Residential Estate District

The applicant is requesting for 1) a 20 foot variance from the 100 foot minimum required street frontage for a Residential Estate lot, as described in Section 35.310.01, to allow two lots to be established with 80 feet of frontage and 2) a 10 foot variance from the 100 foot minimum required street frontage for a Residential Estate lot, as described in Section 35.310.01, to allow a third lot to be established with 90 feet of frontage and 3) a 40 foot variance from the 120 foot minimum lot width, when measured at the setback line, for a Residential Estate lot, as described in Section 35.310.01, to allow two lots to be established with 80 feet of width and 4) a 30 foot variance from the 120 foot minimum lot width, when measured at the setback line, for a Residential Estate lot, as described in Section 35.310.01, to allow a third lot to be established with 90 feet of width.

Kristin Flores, Planner, presented background, and staff's recommendation of the variance requests. She indicated 13 notices were mailed, 0 returned in favor, 5 returned in opposition, and the Oakland Estates Neighborhood Association is in opposition.

Ulises Hubbard, applicant, requested the variances to keep his family together with three (3) houses on the same property lot.

Jose Eduardo Hubbard, applicant's father, explained the plan to keep one driveway for the lot.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-050 closed.

MOTION

A motion was made by **Mr. Garcia** for a continuance to April 4, 2016. The motion was seconded by **Mr. Kuderer**.

AYES: Garcia, Kuderer, Quijano, Neff, Rodriguez, Britton, Cruz, Zuniga, Martinez, Rogers

NAYS: Camargo

THE CONTINUANCE IS GRANTED.

CASE NO. A-16-052

Applicant – Robert Richardson
Lots 4, 5, 6 and S IRR 72.89 FT of 3, Block 1, NCB 1501
119 Stella

Zoning: “RM-4 EP-1 AHOD” Residential Mixed Facility Parking/Traffic Control Airport Hazard Overlay District

The applicant is requesting for a special exception to allow a six foot tall chain link fence to remain in the front yard of the property as described in Section 35-514.

Kristin Flores, Planner, presented background, and staff's recommendation of the special exception request. She indicated 28 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Denver Heights Neighborhood Association.

Robert Richardson, applicant, requested the special exception for the fence to protect his property from vandalism.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-052 closed.

MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-16-052, variance application for a special exception to allow a six foot tall chain link fence to remain in the front yard of the property, subject property description Lots 4, 5, 6 and S IRR 72.89 FT of 3, Block 1, NCB 1501, situated at 119 Stella, applicant being Robert Richardson.

“I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.”

Specifically, we find that:

1. “The special exception will be in harmony with the spirit and purpose of the chapter” in that the subject property is in an area with high pedestrian traffic. Permitting a six (6) foot front fence would grant this property the reasonable protection of property. If granted, this request would be in harmony with the spirit and purpose of the ordinance

2. "The public welfare and convenience will be substantially served" in that **the subject property has experienced vandalism in an area with high volumes of pedestrian traffic. The public welfare and convenience can be served by the added protection of front yard fence, allowing the owner to protect the properties from future invasions.** .
3. "The neighboring property will not be substantially injured by such proposed use" in that **the proposed fence will create enhanced security for subject property. If the lots were combined the subject property would meet the twenty thousand (20,000) square foot minimum to qualify for large lot fencing which permits a six (6) foot front fence by right**
4. "The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought" in that: **front fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.**
5. "The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district" in that: **the purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.**"
The motion was seconded by Ms. Cruz.

AYES: Martinez, Zuniga, Quijano, Neff, Rodriguez, Britton, Cruz, Garcia, Camargo, Kuderer, Rogers

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Consideration to schedule a special meeting for the Board of Adjustment on April 11, 2016.

Mr. Garcia made a motion to approve the special meeting scheduled for April 11, 2016, and the motion was seconded by Ms. Cruz. All members voted in the affirmative.

Ms. Rogers made a motion to approve the March 7, 2016 minutes with all members voting in the affirmative.

Directors Report:

There being no further discussion, meeting adjourned at 3:40 pm.

APPROVED BY: Mark E. Rogers OR _____
Chairman Vice-Chair

DATE: 4-4-16

ATTESTED BY: Melvin Ray DATE: April 4, 16
Executive Secretary