

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
July 2, 2018**



Members Present: Dr. Zottarelli
Alan Neff
Denise Ojeda
George Britton Jr
Maria Cruz
Seth Teel
Mary Rogers
Donald Oroian
John Kuderer
Roger Martinez
Henry Rodriguez
Jeff Finlay

Staff:
Catherine Hernandez, DSD Administrator
Joseph Harney, City Attorney
Logan Sparrow, Principal Planner
Debora Gonzalez, Senior Planner
Dominic Silva, Planner



Call to Order

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

Mr. Kuderer, called the meeting to order and called roll of the applicants for each case.

Herman Perez, 234 W. Sunset, World Wide Languages-Interpreter, present



Tony Felts, Development Services Manager, gave a history and briefing regarding Chapter 16 Licenses and Business Regulations and Chapter 35, Unified Development Code, of the City Code of San Antonio, Texas, relating to Short Term Rentals. Mr. Felts went into detail regarding rules, changes and fines and answered all questions from the Board.

The following citizens appeared to speak.

Roslyn Cogburn, 528 King William, spoke in opposition.

Justin Walker, chose not to speak.



Case Number: A-18-101
Applicant: Jesse Sepulveda
Owner: Jesse Sepulveda
Council District: 1
Location: 1807 West Wildwood Drive
Legal Description: Lot 23, Block 139, NCB 8814
Zoning: “C-1 AHOD” Light Commercial Airport Hazard Overlay and “O-2 AHOD” High-Rise Office Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 5’ variance from the 15’ Type B landscape buffer yard requirement to allow a buffer yard to be as narrow as 10’ along the west property line and 2) a 20’ variance from the 25’ maximum height restriction to allow a building to be 45’ tall, and 3) a variance from the provisions in Section 35-517 Building Height that require that a commercial or office development that abuts a single-family district, when seeking height beyond that permitted by the base zoning district, shall be limited to the height of the adjacent single-family zone for the first 50 feet from the shared property line.

Debora Gonzalez, Senior Planner presented the background information and staff’s recommendation of the variance. She indicated 20 notices were mailed, 1 returned in favor, and 0 returned in opposition with no response from the Los Angeles Heights Neighborhood Association.

Jesse Sepulveda, applicant, stated he wished to construct a structure on the property with the approval of neighbors and supplied a letter stating that. He also stated the sign was in keeping with the area.

Edward Garcia, architect, 3322 Sunny Vale Drive, addressed questions regarding code.

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-18-101 closed.

Mr. Martinez made a motion. “Regarding Appeal No A-18-101, a request for 1) a 5’ variance from the 15’ Type B landscape buffer yard requirement to allow a buffer yard to be as narrow as 10’ along the west property line and 2) a 20’ variance from the 25’ maximum height restriction to allow a building to be 45’ tall, and 3) a variance from the provisions in Section 35-517 Building Height that require that a commercial or office development that abuts a single-family district, when seeking height beyond that permitted by the base zoning district, shall be limited to the height of the adjacent single-family zone for the first 50 feet from the shared property line, situated at 1807 West Wildwood Drive, applicant being Jesse Sepulveda.

I move that the Board of Adjustment grant the applicant’s request for the variances to the subject property 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 variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. Typically, setbacks and buffer yards are established to separate incompatible uses. The site plan is arranged such that the required setbacks are respected, and the applicant is seeking only a minor reduction in the required buffer yard. A fence is still required between the two properties. The requested height of the law office is only 10 feet higher than what the adjacent single-family districts are permitted, a minimal increase considering the placement of the structure on the small lot. Similar developments are located a short distance west of the subject property.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement of the ordinance would cap the applicant to 25 feet. The small, irregular lot does not provide room a large footprint and requires lateral development to provide adequate space.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance intends to provide for reasonable development standards to allow for safe development and to protect incompatible uses. The irregularly shaped, small commercial lot does not allow for a large building footprint. Staff finds that adding height is a reasonable alternative in this scenario. The site plans has been arranged to minimize the impact to adjacent properties.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

The variance will not authorize the operation of a use other than those uses specifically authorized in the “C-1 AHOD” Light Commercial Airport Hazard Overlay and “O-2 AHOD” High-Rise Office Airport Hazard Overlay District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The requests will not injure the rights of the neighboring properties as the applicant is seeking only ten feet more than what adjacent lots are permitted, and is meeting the required building setback. Staff finds the requested variances are not likely to harm adjacent property owners.

- 6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

There are several unique circumstances present in this case. The commercial lot, which fronts onto IH-10, is small and irregularly shaped. Further, adjacent single-family districts are permitted more building height than the “C-1” Light Commercial District. Lastly, similar developments along IH-10 have been met without complaints or concerns from the public. This issue is not merely financial in nature.” Mr. Rodriguez seconded the motion.

AYES: Martinez, Rodriguez, Neff, Teel, Cruz, Dr. Zottarelli, Rogers, Britton, Ojeda, Oroian, Kuderer
NAYS: None

VARIANCE IS GRANTED

The Board of Adjustment convened for break at 2:17 pm and reconvened at 2:27 pm.

Logan Sparrow read into the record:

Case #A18-093 a request for a 4’11” variance from the 5’ side setback to allow an attached carport to be located 1” from the side property line. Applicant: Rodolfo Barron Property Address: 7214 Cool Creek Drive and **Case #A18-114** A request for 1) a 7’ variance from the 10’ front yard setback to allow a carport to be 3’ from the front property line and 2) a 15% variance from the 50% maximum front yard impervious cover limitation to allow the front yard to be 65% covered in impervious surfacing.

Mr. Martinez made a motion to continue cases **#A18-093** and **#A18-114** to July 16, 2018 Dr. Zottarelli seconded the motion, A voice vote was taken and passed unanimously.

Case Number: A-18-111
Applicant: Josh Dyess
Owner: San Juan Villanueva
Council District: 5
Location: 827 Frio City Road
Legal Description: Lot 15, NCB 7588
Zoning: “I-1 AHOD” General Industrial Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for an 8.5' variance from the 15' Type B landscaped buffer yard requirements, as described in Section 35-510, to allow a buffer yard to be as narrow as 6.5' along Frio City Road.

Dominic Silva, Senior Planner presented the background information and staff's recommendation of the variance. He indicated 12 notices were mailed, 0 returned in favor, and 0 returned in opposition with no response from the San Juan Garden Neighborhood Association.

Josh Dice, representative stated he was hired at the tail end of the project gave a brief history, answered all questions and respectfully requested approval.

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-18-111 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-111, a request for an 8.5' variance from the 15' Type B landscape buffer yard requirement to allow a buffer yard to be as narrow as 6.5' along Frio City Road, situated at 827 Frio City Road, applicant being Josh Dyess.

I move that the Board of Adjustment grant the applicant's request for the variances 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 variance is not contrary to the public interest.*

The 6.5' bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has minimal bufferyards established, so any new development will be beneficial and a net improvement to the surrounding district.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement would not allow the continued development of the property as proposed due to the limited space within the property and establishing the full buffer yard as required along Frio City Road.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

In this case, the proposed buffer yard will adhere to the spirit of the ordinance and substantial justice will be done by implementing a 6.5' buffer yard where none exists currently in order to develop the property.

- 4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-1 AHOD” General Industrial Airport Hazard Overlay District.

- 5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The introduction of a 6.5’ buffer yard along Frio City Road would only enhance the overall appearance of the property, streetscape, and district.

- 6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The plight of the owner for which the variance is sought is due to the owner developing a secure facility in order to operate on diesel vehicles that had nonexistent buffer yards to begin with.” Ms. Cruz seconded the motion.

AYES: Neff, Cruz, Martinez, Teel, Dr. Zottarelli, Rogers, Britton, Rodriguez, Ojeda, Oroian, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-18-088
 Applicant: Mary Carrasco
 Owner: Mary Carrasco
 Council District: 3
 Location: 4223 Katrina Lane
 Legal Description: Lot 31, Block 7, NCB 17450
 Zoning: “RM-4” Residential Mixed District
 Case Manager: Dominic Silva, Planner

Request

A request for a 7’5” variance from the 10’ front setback, as described in Section 35-310.01, to allow a carport to be 2’7” from the front property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 45 notices were mailed, 3 returned in favor, and 1 returned in opposition and no response from the Pecan Valley Neighborhood Association.

Mary Carrasco, applicant, stated she built the carport for her mother to protect from the weather. She admitted to not doing her due diligence and asked for the Boards approval.

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-18-088 closed.

Ms. Ojeda made a motion. “Regarding Appeal No A-18-088, a request for a 7’5” variance from the 10’ front setback to allow a carport to be 2’7” from the front property line, situated at 4223 Katrina Lane, applicant being Mary Carrasco.

I move that the Board of Adjustment grant the applicant’s request for the variances 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 variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation, including the protection of vehicles from weather conditions.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement of the ordinance would require that the applicant remove that portion of the carport that infringes into the front setback which would result in unnecessary financial hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is the intent of the Code, which in this case, is the allowance for the protection of vehicles under adequate shelter. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. By granting the variance, the spirit and intent of the code will be observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

The variance will not authorize the operation of a use other than those uses specifically authorized in the “RM-4” Residential Mixed District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The Board finds that the carport, as designed, prevents storm water runoff onto adjacent properties and does not alter the essential character of the district.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by*

the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

The plight of the owner is due to the position of the residence in regards to the zero lot line, which leaves inadequate room for a carport of any substantial size.” Mr. Martinez seconded the motion.

AYES: Ojeda, Martinez, Rogers, Rodriguez, Oroian, Neff, Teel, Cruz, Britton, Dr. Zottarelli, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-18-112
Applicant: Thelma Pena
Owner: Thelma Pena
Council District: 2
Location: 117 Buford Alley
Legal Description: The South 79.1 Feet of Lot 3, Block 6, NCB 1369
Zoning: “R-4 H AHOD” Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 9.5’ variance from the 20’ rear setback, as described in Section 35-310.01, to allow an addition to be 10.5’ from the rear property line.

Mr. Neff made a motion to continue case #A-18-112 to August 6th 2018, Mr. Martinez seconded the motion. A voice vote was taken and passed unanimously.

Case Number: A-18-110
Applicant: Saul Maya de Jesus
Owner: Saul Maya de Jesus
Council District: 4
Location: 3315 Pitluk Avenue
Legal Description: Lot 63, Block 1, NCB 11261
Zoning: “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 5’ variance from the 10’ rear setback, as described in Section 35-310.01, to allow a dwelling unit to be 5’ from the rear property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 34 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Saul Maya de Jesus, applicant, requested interpretation services, Herman Perez, Interpreted the presentation for the applicant in order for him to understand the process. He stated he understood and asked for approval.

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-18-110 closed.

Mr. Rodriguez made a motion. "Regarding Appeal No A-18-110 a request for a 5' variance from the 10' rear setback to allow a dwelling unit to be 5' from the rear property line, situated at 3315 Pitluk Avenue, applicant being Saul Maya de Jesus.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property 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 variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. In this case, the existing structure is 5' from the rear property line and the detached dwelling unit meets all other setback requirements. Staff finds the request is not contrary to the public interest. The Board finds the request is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
An unnecessary hardship would result from the strict enforcement of the ordinance as it would result in the structure having to be demolished and rebuilt. The structure will still be required to obtain permits, reviews, and inspections.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
Substantial justice will be done as the requested setback still provides for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized*
The variance will not authorize the operation of a use other than those uses specifically authorized in the "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The recommended variance would not place the structure out of character within the community. If the structure were limited to one bedroom and one kitchen it would be permitted in its current location.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The unique circumstances existing on the property is that the dwelling unit has already been built, the lot has enough space for two structures, and the applicant is only seeking the rear setback reduction. The 5' variance allows for adequate space for maintenance of the property, prevents fire spread, and allows proper rain water runoff." Mr. Martinez seconded the motion.

AYES: Rodriguez, Martinez, Rogers, Neff, Teel, Cruz, Britton, Dr. Zottarelli, Ojeda, Oroian, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Mr. Kuderer made a motion to approve the June 18, 2018 minutes with all members voting in the affirmative.

Manager's report:

Reminder of the July 16th Work session at 11:30am in the Tobin Room

"Despite strong objection by the Chair prior to the meeting Staff suggested that the Chair allow Ms. Ojeda make a presentation to the Board."

Ms. Ojeda asked to be recognized by the Chair and gave a presentation.

A vote was taken on July 16, 2018 and passed 9-2. Ms. Ojeda and Mr. Neff voted against the motion.

There being no further discussion, meeting adjourned at 3:35 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary