

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
April 4, 2016**

Members Present:

Mary Rogers
Frank Quijano
Alan Neff
George Britton
Maria Cruz
Jesse Zuniga
Christopher Garcia
John Kuderer
Roger Martinez
Jeffrey Finlay
Paul Klein

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.

CASE NO. A-16-061

Kristin Flores, Planner, stated the applicant is requesting a continuance to May 9, 2016.

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-16-061 closed.

MOTION

A motion was made by **Mr. Martinez** for a continuance to May 9, 2016. The motion was seconded by **Ms. Cruz**.

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

NAYS: None

THE CONTINUANCE IS GRANTED.

Mr. Martinez made a motion to move case A-16-056 to the beginning of the agenda for the use of a translator. Mr. Garcia seconded the motion.

All members voted in affirmative.

THE MOTION IS PASSED.

CASE NO. A-16-056

Applicant – Juan Zamora
Lot 4, Block 14, NCB 659
918 S Mesquite
Zoning: “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

The applicant is requesting for 1) a two foot variance from the required five foot side setback, as described in Section 35-310.01, to allow an accessory dwelling unit to remain three feet from the side property line and 2) a two foot variance from the required five foot rear setback, as described in Section 35-310.01, to allow an accessory dwelling unit to remain three feet from the rear property line.

Kristin Flores, Planner, presented the background information and staff’s recommendation of the variances. She indicated 27 notices were mailed, 1 returned in favor, and 0 returned in opposition, and the Denver Heights Neighborhood Association is in favor.

Juan Zamora, applicant, stated he torn down the existing structure to renew and remodel the structure into a living space for his granddaughter. He also stated he used the previous property lines from the structure he torn down.

Javier Roman, World Wide Languages, translator provided for the applicant by the City of San Antonio.

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-16-056 closed.

MOTION

The motion was made by **Mr. Neff**. “Regarding Appeal No. A-16-056, variance application or 1) a two foot variance from the required five foot side setback to allow an accessory dwelling unit to remain three feet from the side property line and 2) a two foot variance from the required five foot rear setback to allow an accessory dwelling unit to remain three feet from the rear property line, subject property description Lot 4, Block 14, NCB 659, situated at 918 South Mesquite, applicant being Diana Zamora.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by side and rear setback limitations to protect property owners and to contribute to a sense of community. Staff finds that the request for an accessory dwelling unit encroaching into the side and rear setback is not contrary to the public interest. Since the accessory dwelling unit was converted from an existing structure, it is not likely to increase fire risk or cause water runoff on adjacent properties.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a new building was not constructed thus causing no further encroachment than was previously present on the property.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **an accessory structure was converted into a dwelling unit causing no new encroachment.**
- 4) "Such 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" in that **an accessory dwelling unit within the side and rear setback is not out of character with the essential character of the community.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because an accessory structure, which has been in the current location for many years, was converted into an accessory dwelling unit. This conversion requires a larger side and rear setback. Since the building has been present for many years there are not likely to be adverse effects on adjacent properties.**" The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCES ARE 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 the site plan and updated information for the case, and staff's recommendation of the variance requests. She indicated 13 notices were mailed, 0 returned in favor, 6 returned in opposition, and the Oakland Estates Neighborhood Association is in opposition.

Ulises Hubbard, applicant, addressed the Board with information that was requested from the previous meeting. He presented a survey, deed restrictions, and stated he worked with the surrounding community to follow up with the concerns.

The following citizens appeared to speak:

Ross Laughead, spoke in opposition, and stated he would be in agreement with two (2) houses on the lot but not three (3).

Edwin Ray, yielded minutes to Ross Laughead.

Sue Snyder, President of Oakland Estates Neighborhood Association, spoke in opposition regarding the rural preservation of the surrounding area.

Barney Tearney, passed.

Teresita Ray, passed.

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. Neff**. "Regarding Appeal No. A-16-050, variance application for 1) a 20 foot variance from the 100 foot minimum required street frontage for a Residential Estate lot 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 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 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 to allow a third lot to be established with 90 feet of width, subject property description Lot 21, Block 8, NCB 14708, situated at 10253 White Bonnet, applicant being Ulises Hubbard.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by lot widths and required frontage minimums that help to ensure uniform, safe development with the City of San Antonio. The proposed design will meet the minimum lot size requirement and will maintain the current curb appeal by only constructing one entrance.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **over sixty (60) percent of the lot is located in the flood zone largely restricting development options. Additionally, the extraordinary length of the lot provides the needed space for the proposed construction to meet the minimum lot size and all required setbacks.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the minimum square footage for "RE" Residential Estate will be met and the streetscape will remain largely unchanged.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"RE" Residential Estate 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" in that **the proposed lot widths will not impact the required front, rear, and side setbacks and will maintain the character of the current streetscape.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the flood plain on this property limits the development options shared by others with properties of this size. The plight is unique to the property, not created by the owner of the property, and not financial.**" The motion was seconded by Mr. Britton.

AYES: Britton, Zuniga

NAYS: Neff, Quijano, Finlay, Cruz, Garcia, Martinez, Klein, Kuderer, Rogers

THE VARIANCES FAILED.

The Board of Adjustment recessed for a 10 minute break at 2:40 p.m.

CASE NO. A-16-059

Applicant: Richard Peacock

Owner: Rafter Properties, LLC

Lot 17, Block 4, NCB 1196

Generally located in the 700 block of Seguin Street

Zoning: "C-2 EP-1" Commercial Facility Parking/Traffic Control District

The applicant is requesting for a 51 percent reduction of the required Type E, 30 foot deep bufferyard, as described in 35-510, to allow a commercial development with 49 percent of the required bufferyard along the west property line.

Kristin Flores, Planner, presented background, and staff's recommendation of the variance request. She indicated 5 notices were mailed, 5 returned in favor, 0 returned in opposition, and no response from the Government Hill Neighborhood Association.

Jason Lochte, Architect representing Mr. Peacock, requested the variance to reduce the bufferyard percentage to create more parking for a future development.

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-16-059 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-059, variance application for a 51 percent reduction of the required Type E, 30 foot deep bufferyard to allow a commercial development with 49 percent of the required bufferyard along the west property line, subject property description Lot 17, Block 4, NCB 1196, situated generally in the 700 block of Seguin Street, applicant being Richard Peacock.

"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) "Such variance will not be contrary to the public interest" in that **public interest is defined as the general health, safety, and welfare of the public. In this case, these are represented by requiring bufferyards to beautify our urban streetscapes and to provide landscaped separation from incompatible uses. The public interest is also represented by minimum parking requirements. If the bufferyard was established the commercial development would lose a majority of their parking spaces, pushing the development out of compliance with the parking requirements. This would not serve the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the narrow width and irregular shape of the lot limit the ability of the applicant to provide the full bufferyard for new construction. The applicant has a landscape plan to provide 49% of the required Type E bufferyard**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **spirit of the bufferyard requirements, in this case, aims to beautify our urban streetscapes. The applicant has designed a site plan to meet setbacks and parking requirements. We find that the proposed landscape plan, which provides 49% of the required bufferyard, meets the spirit of the ordinance.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"C-2 EP-1" Commercial Facility Parking/Traffic Control 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" in that **the bufferyard does not separate incompatible uses, but rather seeks to add a natural aesthetic to the Seguin Street frontage. It is unlikely that eliminating this bufferyard requirement would injure adjacent properties. Further, lots in this neighborhood are largely vacant industrial lots that abut Interstate 35 Frontage Road. As such, we find that the reduction of this bufferyard would not alter the essential character of the district in which it is located.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the narrow lot width and irregular lot shape are not the fault of the owner and are not merely financial in nature.**" The motion was seconded by Mr. Garcia.

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-072

Applicant – Becky Carol

Owner: LG Loop 410 and Babcock, LLC

Lot 8, Block 1, NCB 13914

4315 NW Loop 410

Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District

The applicant is requesting for the elimination of the Type B, 15 foot deep bufferyard, as described in Section 35-510, to allow a commercial development with no buffering along the NW Loop 410 and Babcock Road frontages.

Logan Sparrow, Senior Planner, presented background, and staff's recommendation of the variance request. He indicated 8 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Becky Carol, representative, requested the variance to reduce the bufferyard to allow for a commercial development.

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-16-072 closed.

MOTION

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-072, variance application for the elimination of the Type B, 15 foot deep bufferyard, subject property description Lot 8, Block 1, NCB 13914, situated at 4315 NW Loop 410, applicant being Becky Carol.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by side bufferyard requirements to add beauty to our streetscapes and to separate incompatible uses. In this case, the property already is buffered by elevation changes and a large ROW .Also, if the applicant does have to provide the full 15 foot bufferyard, the developer will likely have to remove trees, which is contrary to the purpose of the bufferyard code.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would lose a significant portion of their required parking. This would mean that existing landscaped areas and trees would need to be removed to make room for the required parking.**

- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the property is already separated by a large ROW and with elevation changes.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized **in the "C-2 AHOD" Commercial 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" in that **the commercial development will install a 5 ft bufferyard along the Babcock Road frontage. Also, adjacent commercial developments, built years ago when the bufferyard chapter didn't require street buffering, lack the bufferyard, too. As such, the proposed design is unlikely to detract from 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, **because without the variance, the developer will have to remove trees.**" The motion was seconded by **Mr. Garcia.**

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-060

Applicant – Kristin Hefty

Lot 21, NCB 6137

319 Parland Place

Zoning: "R-4 NCD-6 AHOD" Residential Single-Family Mahncke Park

Neighborhood Conservation District Airport Hazard Overlay District

The applicant is requesting a special exception to allow an eight foot tall fence in the rear yard of the property as described in Section 35-514.

Margaret Pahl, Senior Planner, presented the background information, and staff's recommendation of the special exception request. She indicated 18 notices were mailed, 1 returned in favor, 2 returned in opposition, and no response from the Mahncke Park Neighborhood Association.

Kristin Hefty, applicant, requested the special exception to have an eight (8) foot fence in the backyard for family privacy, due to constant barking from her dog and the neighbor's foster dogs.

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-16-060 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-060, a request for a special exception to allow an eight foot tall fence in the rear yard, subject property description Lot 21, NCB 6137, situated at 319 Parland Place, applicant being Kristin Hefty.

"I move that the Board of Adjustment grant the applicant's request for a special exception 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:

- A. "The special exception will be in harmony with the spirit and purpose of the chapter" in that **the UDC allows eight foot rear fences as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report.**
- B. "The public welfare and convenience will be substantially served" **by the added protection of rear yard fence, allowing the owner to protect the subject property and improve the quiet enjoyment of their rear yard.**
- C. "The neighboring property will not be substantially injured by such proposed use" in that **the rear fence will create enhanced privacy for the subject property and is highly unlikely to injure adjacent properties.**
- D. "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 and will be barely visible from the public street.**
- E. "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.**" The motion was seconded by **Ms. Cruz**.

AYES: Neff, Cruz, Quijano, Britton, Garcia, Martinez, Finlay, Kuderer, Rogers

NAYS: Zuniga, Klein

THE SPECIAL EXCEPTION IS GRANTED.

CASE NO. A-16-063

Applicant – Patricia Zapata
Lot 13, Block 2, NCB 8563
120 Vassar Lane
Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay
District

The applicant is requesting for a special exception to allow a fence as tall as seven feet and ten inches tall 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 34 notices were mailed, 2 returned in favor, and 3 returned in opposition.

Patricia Zapata, applicant, requested the special exception for her existing fence due to privacy reasons.

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-16-063 closed.

MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-16-063, variance application for a special exception to allow a fence as tall as seven feet and ten inches tall in the front yard of the property, subject property description Lot 13, Block 2, NCB 8563, situated at 120 Vassar Lane, applicant being Patricia Zapata.

“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 fences over six (6) feet 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 front 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 front fence will create enhanced security for subject property.**
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: **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. Garcia.

AYES: Garcia, Britton

NAYS: Martinez, Quijano, Neff, Cruz, Zuniga, Finlay, Klein, Kuderer, Rogers

THE SPECIAL EXCEPTION FAILED.

The Board of Adjustment recessed for a 10 minute break at 4:25 p.m.

CASE NO. A-16-055

Applicant: Margaret Lowery

Owner: Estate of Charlie and Gertrude Henderson

Lot S 39 of N 78 of 15 and S 39 of N 78 of W 25.7 of 14, NCB 1406

420 Dreiss Street

Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District

The applicant is requesting for a four foot and six inch variance from the five foot side yard setback, as described in Section 35- 310.01, to allow an attached carport to remain six inches from the side property line.

Logan Sparrow, Senior Planner, presented background, and staff's recommendation of the variance request. He indicated 24 notices were mailed, 1 returned in favor, and 0 returned in opposition, and the Denver Heights Neighborhood Association is in favor.

Margaret and Lionel Lowery, applicant, stated the home was inherited with the carport already built and attached to the home, and requested the variance to keep the carport as it stands.

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-16-055 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-055, variance application for a four foot and six inch variance from the five foot side yard setback to allow an attached carport to remain six inches from the side property line, subject property description Lot S 39 of N 78 of 15 and S 39 of N 78 of W 25.7 of 14, NCB 1406, situated at 420 Dreiss Street, applicant being Margaret Lowery.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by side setback limitations to protect property owners and to contribute to a sense of community. The Board finds that the request for covered parking encroaching into the setbacks is not contrary to the public. However, if approved the applicant should take measures to address water runoff and fire rating.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would be required to demolish the carport and this would result in an unnecessary hardship.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **fire rating the structure will make the carport more safe.**
- 4) "Such 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" in that **the carport is will be fire rated.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the narrow lot makes construction of a carport difficult and the variance to reduce the side setback is necessary.**" The motion was seconded by **Mr. Kuderer.**

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-057

Applicant – Daniel Zertuche

Lot S 132 FT of 19, Block 11, NCB 7398

215 West Emerson Avenue

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

The applicant is requesting for 1) a six foot and six inch variance from the ten (10) foot front setback, as described in Section 35- 310.01, to allow a carport to remain three feet and six inches from the front property line and 2) a four foot variance from the five (5) foot side yard setback,.

Kristin Flores, Planner, presented background, and staff’s recommendation of the variance requests. She indicated 34 notices were mailed, 2 returned in favor, 1 returned in opposition, and no response from the Thompson Neighborhood Association.

Daniel Zertuche, applicant, stated he was unaware the contractor did not pull a permit for the carport. He also stated the carport is made out of metal and is complementary to the property.

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-16-057 closed.

MOTION

A motion was made by **Mr. Kuderer**. “Regarding Appeal No. A-16-057, variance application for a four foot variance from the five foot side yard setback to allow a carport to remain one foot from the side property line, subject property description Lot S 132 FT of 19, Block 11, NCB 7398, situated at 215 West Emerson Avenue, applicant being Daniel Zertuche.

“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) "Such variance will not be contrary to the public interest" in that **the public interest is represented by side setback limitations to protect property owners and to contribute to a sense of community. The Board finds that the request for covered parking encroaching into the setbacks is not contrary to the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would be required to demolish the carport, a substantial structure.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **permits and inspections will verify the carport is structurally sound.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-6 AHOD" Residential Single-Family 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" in that **the carport is attractive and may add value to the surrounding area.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the owner hired a contractor who did not pull the required permits or follow the development standards for the City of San Antonio.**" The motion was seconded by **Mr. Martinez.**

AYES: Kuderer, Martinez, Neff, Finlay, Britton, Cruz, Zuniga, Garcia, Rogers
NAYS: Quijano, Klein

THE VARIANCE IS GRANTED.

Second Motion

A motion was made by **Mr. Martinez.** "Regarding Appeal No. A-16-057, variance application for 1) a six foot and six inch variance from the ten foot front setback to allow a carport to remain three feet and six inches from the front property line, subject property description Lot S 132 FT of 19, Block 11, NCB 7398, situated at 215 West Emerson Avenue, applicant being Daniel Zertuche.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public**

interest is represented by front setback limitations to protect property owners and to contribute to a sense of community. The Board finds that the request for covered parking encroaching into the front setbacks is not contrary to the public interest.

- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would be required to demolish the front part of the carport, to comply with current code concerning front setbacks.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **permits and inspections will verify the carport is structurally sound.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-6 AHOD" Residential Single-Family 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" in that **the carport is attractive and may add value to the surrounding area.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the owner hired a contractor who did not pull the required permits or follow the development standards for the City of San Antonio.**" The motion was seconded by **Mr. Garcia.**

AYES: Martinez, Garcia, Neff, Britton, Cruz

NAYS: Quijano, Finlay, Zuniga, Klein, Kuderer, Rogers

THE VARIANCE FAILED.

CASE NO. A-16-054

Applicant – Michele Nievaard

Lots 29 and 30, Block 13, NCB 6533

214 W. Lullwood

Zoning: "R-5 H AHOD" Residential Single-Family Monte Vista Historic

Airport Hazard Overlay District

The applicant is requesting for a four foot variance from the minimum five foot side yard setback, as described in Table 35-310-1, to allow a metal staircase to be one foot from the side property line.

Margaret Pahl, Senior Planner, presented background, and staff's recommendation of the variance request. She indicated 20 notices were mailed, 0 returned in favor, and 2 returned in opposition, and no response from the Monte Vista Neighborhood Association.

Michele Nievaard, applicant, stated the variance request is to allow a staircase to be on the left side instead of the right side to maximize the space and the aesthetics of her property. She also stated the living space is only for her visiting family.

The following citizens appeared to speak:

Pat DiGiovanni, spoke in opposition.

Alicia DiGiovanni, yielded minutes to Pat DiGiovanni.

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-16-054 closed.

MOTION

A motion was made by **Mr. Kuderer**. “Regarding Appeal No. A-16-054, variance application for a four foot variance from the minimum five foot side yard setback, to allow a metal staircase to be one foot from the side property line subject property description Lots 29 and 30, Block 13, NCB 6533, situated at 214 W. Lullwood, applicant being Michele Nievaard.

“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) “Such variance will not be contrary to the public interest” in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum setbacks. The metal staircase does not pose a fire hazard.**
- 2) “Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship” in that **the interior of the yard is small and the staircase fits in the side setback.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the staircase is often installed along the side yard.**
- 4) “Such variance will not authorize the operation of a use other **than those specifically permitted in the “R-5 H AHOD” Residential Single-Family Monte Vista Historic 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” in that **the staircase will be barely visible from the street.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the lawn area is limited.**” The motion was seconded by **Mr. Martinez.**

AYES: Martinez

NAYS: Kuderer, Quijano, Neff, Finlay, Britton, Cruz, Zuniga, Garcia, Klein, Rogers

THE VARIANCE FAILED.

CASE NO. A-16-062

Applicant – Noe Pineda

Lot 76, Block 3, NCB 14912

3611 Chapultapec

Zoning: “NP-8 NCD-3 AHOD” Neighborhood Preservation Ingram Hills

Neighborhood Conservation Overlay Airport Hazard Overlay District and “R-20 NCD-3

AHOD” Residential Single-Family Ingram Hills Neighborhood Conservation Overlay Airport

Hazard Overlay District

The applicant is requesting for a 6,000 square foot variance from the 20,000 square foot minimum lot size requirement, as described in Section 35-310.01, to allow a lot split-zoned “NP-8” Neighborhood Preservation District and “R-20” Residential Single-Family District to be 14,000 square feet in size.

Logan Sparrow, Senior Planner, presented background, and staff’s recommendation of the variance request. He indicated 28 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from Ingram Hills Neighborhood Association.

Noe Pineda, applicant.

Rick Lopez, representative, translator for the applicant. Stated the property is for family use and was bought with structures already existing. He is in the process of re-platting the two properties into one lot, and requested the variance to keep the split zones.

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-16-062 closed.

MOTION

A motion was made by **Mr. Finlay**. “Regarding Appeal No. A-16-062, variance application for a 6,000 square foot variance from the 20,000 square foot requirement to allow a lot split-zoned “NP-8” Neighborhood Preservation District and “R-20” Residential Single-Family District to be 14,000 square feet in size, subject property description Lot 76, Block 3, NCB 14912, situated at 3611 Chapultapec, applicant being Noe Pineda.

"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) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum lot sizes to ensure consistent development within this community. The reduction of the lot size is unlikely to conflict with the public interest as the lot is not viewable from the street. The end result being that this re-plat is hardly noticeable from either street frontage.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would have to either demolish the accessory structures built or rezone the property to a classification that permits smaller lot sizes.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the proposed re-plat is unlikely to go noticed by the community and the remaining portion of the lot fronting on E Horseshoe Bend retains its required 20,000 sq ft lot size.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "NP-8 NCD-3 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation District Airport Hazard Overlay District and "R-20 NCD-3 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation District 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" in that **the re-plat is hardly noticeable to 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; **because the re-plat will not result in any changed conditions within the communities fronting on Chapultapec or East Horseshoe Bend.**"
The motion was seconded by Mr. Klein.

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

NAYS: None

THE VARIANCE IS GRANTED.

Ms. Rogers made a motion to approve the March 21, 2016 minutes with all members voting in the affirmative.

Directors Report:

- Special Meeting reminder for April 11, 2016.

There being no further discussion, meeting adjourned at 6:07 pm.

April 4, 2016

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APPROVED BY: Mary E Rozar OR _____
Chairman Vice-Chair

DATE: 5-9-16

ATTESTED BY: Melvin Raj DATE: May 12, 16
Executive Secretary