BOARD OF ADJUSTMENT
OFFICIAL MINUTES
February 5, 2018

Members Present:

Mary Rogers
Jay Gragg
Denise Ojeda
George Britton
Donald Oroian
John Kuderer
Seth Teel
Henry Rodriguez
Roger Martinez
Alan Neff

Staff:
Catherine Hernandez, Planning Manager
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, World Wide Languages Translator was present.

Case Number:	**A-18-018**
Applicant:	Our Casas Resident Council, Inc.
Owner:	Our Casas Resident Council, Inc.
Council District:	5
Location:	1814, 1818, and 1822 Santiago Street
Legal Description:	Lots 41, 43-45, 21, 22, NCB 6469
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for 1) an 11.52 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow homes to be built with an 8.48 foot rear setback and 2) a 250 square foot variance from the 4,000 square foot minimum lot size, as described in Section 35-310.01, to allow one of the lots to be 3,750 square feet.

Logan Sparrow, Principal Planner, presented the background information and staff's recommendation of the Variance. He indicated 39 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Zeke Romo, applicant gave a short presentation on how the organization got started and the specifications to providing home ownership for people in the West Side. He gave a history on the property 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-18-018 closed.

MOTION

A motion was made by **Mr. Rodriguez.** "Regarding Appeal No. A-18-018, a request for 1) an 11.52 foot variance from the 20 foot rear setback to allow homes to be built with an 8.48 foot rear setback and 2) a 250 square foot variance from the 4,000 square foot minimum lot size to allow a home to be built on a 3,750 square foot lot, situated at 1814, 1818, and 1822 Santiago Street, applicant being Our Casas Resident Council, Inc.

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.*
   Most residential zoning districts require only a ten foot rear setback. Further, allowing one lot to be 250 square feet shy of the requirement is unlikely to be noticed. The Board finds that neither request is contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
   If enforced, the ordinance would significantly reduce the amount of developable space on each site. The small lot configurations are the result of an old subdivision and the lots are similar to the lot scheme of the neighborhood.

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 setbacks will still provide for a safe development pattern. Both requests provide fair and equal access to air and light, and provide 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 "R-4 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.*
The 8.48 foot rear setback variance, and to allow one of the lots to be 3750 square feet, is highly unlikely to injure adjacent property owners as these lots are similar to other lots in the subdivision. The rear setback provides adequate room for maintenance without trespass and will not create any health or safety hazards.

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 circumstance existing on the site was created by the original subdivision, which do not meet the requirements for an "R-4" lot under the current Unified Development Code." The motion was seconded by

AYES: Rodriguez, Martinez, Britton, Ojeda, Teel, Rogers, Oroian, Neff, Gragg, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	**A-18-023**
Applicant:	Wes Putman
Owner:	WeinRitter Realty, LP
Council District:	2
Location:	2000 Block of Austin Highway
Legal Description:	Lot TR 6 and the Northwest TRI 90.1 Feet by 82.2 Feet of Lot J, NCB 12172
Zoning:	"C-3 MC-3 AHOD" General Commercial Harry Wurzbach/Austin Highway Metropolitan Corridor Overlay Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for a 120 foot variance from the 200 foot distance requirement between two signs, as described in Chapter 28, Section 28-49, to allow two signs to be 80 feet apart.

Logan Sparrow, Principal Planner, presented the background information and staff's recommendation of the variance. He indicated 19 notices were mailed, 0 returned in favor, and 1 returned in opposition and no neighborhood associations.

Wes Putman, applicant stated they would remove the three existing sign poles and gave a presentation about the property and all the services that they provide and answered all the Boards questions.

Andrew Perez, Chief Sign Inspector, City of San Antonio explained the property options and answered the Boards questions.

The Following citizens appeared to speak.

Mary Scarava: spoke in favor.
Danny Mireles: spoke in favor.

Regarding Appeal No A-18-023, a request for a 120 foot variance from the 200 foot distance requirement between two signs, to allow two signs to be 80 foot apart, located in the 2000 Block of Austin Highway, applicant being Wes Putman.

I move that the Board of Adjustment grant the applicant's request for the 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 variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*

2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and.*

   The applicant feels that the signage is necessary to allow tenants adequate space to advertise and, in exchange, has offered to remove an existing, unused tri-pole sign base on the property to enhance the corridor. The Board understands the need for adequate signage, and finds that placing a new, conforming sign on the property, that requires a deviation from the distance requirement, is superior than modifying the large non-conforming sign.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), 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.*

   The request will not grant the applicant a privilege not enjoyed by other along the corridor. The applicant had originally submitted a plan to add an electronic message board to the existing, non-conforming sign, but agreed to staff's recommendation that a new, conforming sign be placed on the property, and pursue a variance to the minimum spacing requirement.

B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

   The requested variance is unlikely to harm adjacent property. The sign is consistent with the height and square footage limitations of the Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay district.

C. Granting the variance will not substantially conflict with the stated purposes of this article.

The request does not conflict with the stated purpose of the chapter because it is introducing a sign that conforms to the height and square footage limitations set for by the chapter. The alternative would be to extend the life of a large, non-conforming sign; an activity specifically discouraged by the overlay district." Mr. Martinez seconded the motion.

AYES: Neff, Martinez, Teel, Britton, Ojeda, Rodriguez, Rogers, Oroian, Gragg, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	**A-18-020**
Applicant:	Jesse A. Sepulveda
Owner:	Jesse A. Sepulveda
Council District:	1
Location:	2611 San Pedro Avenue
Legal Description:	Lot 16-20, Block 13, NCB 6435
Zoning:	"O-1 NCD-2 AHOD" High Rise Office Neighborhood Commercial Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for variance from the following "NCD-2" Alta Vista Neighborhood Conservation District design requirements: 1) a three foot variance from the eight foot maximum sign height to allow a sign be eleven feet tall 2) a ten square foot variance from the 15 square foot maximum sign size to allow a 25 square foot sign.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance request. She indicated 29 notices were mailed, 2 returned in favor, and 2 returned in opposition and the Monte Vista Historical Association Architecture Review Committee is opposed.

Jesse Sepulveda, applicant Gave a history on the property and a brief presentation in regards to the Fence height and shrubs. The applicant maintains the property and asked for the Boards approval.

The Following citizens appeared to speak.

Claudia Guerra, President of the Alta Vista Neighborhood Association spoke in opposition.

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-18-020 closed.

MOTION
A motion was made by **Mr. Martinez to continue the Item to March 5, 2018** and the motion was seconded by **Mr. Rodriguez. A voice vote was taken and was approved unanimously.**

THE CONTINUANCE IS GRANTED TO MARCH 5, 2018.

Case Number:	**A-18-025**
Applicant:	Rafic C.de los Santos
Owner:	Rafic C.de los Santos
Council District:	7
Location:	6446 Lost Holly
Legal Description:	Lot 9, Block 2, NCB 17353
Zoning:	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for a special exception, as described in Section 35-514, to allow an eight foot tall fence on the rear and side.

Logan Sparrow, Planner, presented background, and staff's recommendation of the variance requests. He indicated 43 notices were mailed, 0 returned in favor, and 4 returned in opposition.

Hugo De los Santos, representative on behalf of Rafic C. De los Santos, showed pictures of the property in question and state Mr. Rafic De Los Santos took down what code compliance sited him on. The property is still as when it was purchased.

The following Citizens appeared to speak.

Antoinette Vallon, spoke in opposition.

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-18-025 closed.

MOTION

A motion was made by **Mr. Teel.** "Regarding Appeal No A-18-025, a request for a special exception to allow an eight foot tall fence on the rear and side, situated at 6446 Lost Holly, applicant being Rafic C. De los Santos.

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:

A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The special exception request is in harmony with the spirit and purpose of the chapter because the additional height is requested to provide the property owner with additional privacy.

B. *The public welfare and convenience will be substantially served.*

The public welfare will be served because it will allow the property owner to keep a fence that was already in place when the home was purchased.

C. *The neighboring property will not be substantially injured by such proposed use.*

No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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.*

The fence has existed for several years. The Board finds that allowing the fence to remain will not detract from the character of the community.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The property is located within the "PUD R-5" Planned Unit Development Residential Single-Family zoning district and permits the current use of a single-family home. The fence does not weaken the general purpose of this district." The motion was seconded by **Mr. Neff.**

Mr. Martinez made a motion to continue to April 2, 2018 and was seconded by Ms. Ojeda. Mr. Kuderer asked for a voice vote which passed unanimously.

THE CASE IS CONTINUED TO APRIL 2, 2018.

The Board convened for a 10 minute break at 3:10pm and reconvened at 3:20pm.

Ms. Ojeda made a motion to continue item #A-18-024 until March 5, 2018 and was seconded by Mr. Britton. A voice vote was taken and passed unanimously.

Case Number:	**A-18-019**
Applicant:	Michelle Sowa
Owner:	Michelle Sowa and Mark Hamlin
Council District:	10
Location:	519 and 523 Cave Lane
Legal Description:	Lots 11 and 12, NCB 11820
Zoning:	"NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a special exception, as described in Section 35-514, to allow a seven foot and three inch tall fence in the side and rear of the property.

Debora Gonzalez, Senior Planner, presented the background information, and staff's recommendation of the variance request. She indicated 21 notices were mailed, 1 returned in favor, 0 returned in opposition with no response from the Oak Park and Northwood Neighborhood Association.

Michelle Sowa and Mark Hamlin, applicants, stated the fence is needed to prevent neighborhood children from entering her pool illegally. They feel the fence is necessary to protect their 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-18-019 closed.

MOTION

A motion was made by **Mr. Martinez.** "Regarding Appeal No. A-18-019, a request for a special exception to allow a seven foot and three inch tall fence in the side and rear of the property situated at 519 and 523 Cave Lane applicant being Michelle Sowa.

I move that the Board of Adjustment grant the applicant's request for the 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.*

The request for a seven foot and three inch tall fence on a small portion of the yard is in harmony with the spirit of the chapter. No portion of the fence is in violation of the Clear Vision field, and the fence is intended to prevent acts of trespass.

B. *The public welfare and convenience will be substantially served.*

The public welfare and convenience can be served by the added protection of higher rear yard fencing, allowing the owners to protect the subject property.

C. *The neighboring property will not be substantially injured by such proposed use.*

No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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.*

The fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The property is located within the "NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District and permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district." The motion was seconded by **Ms. Ojeda.**

AYES: Martinez, Ojeda, Britton, Teel, Rodriguez, Rogers, Oroian, Neff, Rodriguez, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Mr. Sparrow stated that the applicant for case A-18-024 would like to withdraw his request from consideration

Case Number:	**A-18-022**
Applicant:	Adrian Lara
Owner:	Adrian Lara
Council District:	5
Location:	1715 Saunders Avenue
Legal Description:	The East 72.5 feet of Lot 5, Block 1, NCB 2350
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a special exception, as described in Section 35-514, to allow a six foot tall predominately open fence in the front of the property.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance requests. She indicated 19 notices were mailed, 2 returned in favor, 0 returned in opposition and no response from the Avenida Guadalupe Neighborhood Association.

Adrian Lara, applicant, requested interpretation services, stated his property has been broken into on 4 occasions and did not know he needed a permit to build a fence.

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-18-022 closed.

MOTION

A motion was made by **Mr. Rodriguez.** "Regarding Appeal No A-18-022, a request for a special exception to allow a six foot tall predominately open fence in the front of the subject property situated at 1715 Saunders Avenue applicant being Adrian Lara.

I move that the Board of Adjustment grant the applicant's request for the 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.*

The request for a six foot tall fence in a portion of the front yard is in harmony with the spirit of the chapter as the applicant is merely seeking to replace a fence that has existed without any problems. No portion of the fence is in violation of the Clear Vision field.

B. *The public welfare and convenience will be substantially served.*

In this case, other property owners within a close proximity have similar fencing, too.

C. *The neighboring property will not be substantially injured by such proposed use.*

No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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.*

The wrought iron fence in the front yard will create enhanced security for subject property and is highly unlikely to injure adjacent properties.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The property is located within the "RM-4" Residential Mixed zoning district and permits the current use of a single-family home. Therefore, the requested special exception will not weaken the general purpose of the district." The motion was seconded by **Mr. Neff.**

AYES: Rodriguez, Neff, Martinez, Britton, Teel, Ojeda, Rogers, Oroian, Kuderer
NAYS: None

THE VARIANCES ARE GRANTED.

Case Number: **A-18-017**
Applicant: Elizabeth Webb
Owner: Elizabeth Webb
Council District: 2
Location: 321 Piedmont Avenue
Legal Description: Lot 15 and 16, Block 1, NCB 1697

Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a special exception, as described in Section 35-514, to allow a fence to be as tall as seven feet in the front yard.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance request. She indicated 41 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Denver Heights Neighborhood Association is in opposition.

Alex Perry, representative, spoke on behalf of Elizabeth Webb, he explained that feral animals jump his fence and have attacked him and his mother on multiple occasions. They have also seen children attacked by dogs in the neighborhood and merely wish to protect themselves.

No one 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-18-017 closed.

MOTION

A motion was made by **Mr. Neff.** "Regarding Appeal No A-18-017, a request for a special exception, to allow a fence to be as tall as seven feet in the front yard, subject property situated at 321 Piedmont Avenue applicant being Elizabeth Webb.

I move that the Board of Adjustment grant the applicant's request for the 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.*

The request for a seven foot tall fence in the front yard is in harmony with the spirit of the chapter. No portion of the fence is in violation of the Clear Vision field and there are nearby properties with a similar fencing design.

B. *The public welfare and convenience will be substantially served.*

In this case, other property owners within a close proximity have similar fencing, too.

C. The neighboring property will not be substantially injured by such proposed use.

No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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.*

The front yard fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The property is located within the "RM-4" Residential Mixed zoning district and permits the current use of a single-family home. Therefore, the requested special exception will not weaken the general purpose of the district." Mr. Neff seconded the motion.

AYES: Neff, Ojeda, Britton, Teel, Rodriguez, Martinez, Rogers, Oroian, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	**A-18-028**
Applicant:	Martin and Sandra Gomez
Owner:	Martin and Sandra Gomez
Council District:	3
Location:	358 W. Mayfield Boulevard
Legal Description:	Lot 287, NCB 7851
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a 560 square foot variance from the 800 square foot Accessory Dwelling Unit maximum size, as described in Section 35-371, to allow an accessory dwelling unit to be 1,360 square feet in size and 2) a variance from the requirement that an Accessory Dwelling Unit be

located in the side or rear yard of the primary dwelling, as described in Section 35-370, to allow the Accessory Dwelling Unit to be located in front of the primary dwelling.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance requests. She indicated 27 notices were mailed, 0 returned in favor, and 2 returned in opposition and no neighborhood association.

Martin and Sandra Gomez, applicant, requested interpretation services, stated he wants to build a large home with a large porch. He was told he could build the home as long as it follows the City Code. He also stated he wanted to cut down a large oak tree in the process.

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-18-028 closed.

MOTION

A motion was made by **Ms. Ojeda to continue case #A-18-028 to April 2, 2018.** The motion was seconded by **Mr. Britton. A voice vote was taken and passed unanimously.**

THE MOTION TO CONTINUE WAS GRANTED.

Ms. Ojeda made a motion to continue case #A-18-027 to be continued to March 5, 2018. Mr. Neff seconded the motion. A voice was taken and passed unanimously.

Mr. Kuderer made a motion to approve the February 5, 2018 minutes with all members voting in the affirmative.

Directors Report: Board of adjustment members voted to be paid quarterly.

There being no further discussion, meeting adjourned at 4:25 pm.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: 2/19/18

ATTESTED BY: _____ DATE: Feb. 22, 18
Executive Secretary