

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
April 16, 2018**

Members Present:	Dr. Zottarelli Jeff Finlay Denise Ojeda George Britton Jr Maria Cruz Seth Teel Mary Rogers Donald Oroian John Kuderer Roger Martinez Henry Rodriguez Jay Gragg	Staff: Catherine Hernandez, Planning Manager Joseph Harney, City Attorney Logan Sparrow, Principal Planner Debora Gonzalez, Senior Planner Dominic Silva, Planner
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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-Interpreter, present.

Mr. Martinez made a motion to move up Item #A-18-066. Ms. Cruz seconded the motion. A voice vote was taken and passed unanimously.

Mr. Oroian recused himself from Item #A-18-066 at 1:11pm

Case Number:	A-18-066
Applicant:	David Bogle
Owner:	Taimur Raza
Council District:	2
Location:	444 Pershing Ave.
Legal Description:	Lot 22-24, Block 1, NCB 6524
Zoning:	"R-4 NCD-6 AHOD" Single-Family Residential Mahncke Park Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a two foot variance from the five foot side setback, as described in Section 35-371, to allow an accessory dwelling unit to be three feet from the side property line, 2) a 387 square foot variance from the 800 square foot maximum accessory dwelling unit size, as described in Section 35-371, to allow an accessory dwelling unit to be 1,187 square feet, 3) a 1,680 square foot variance from the 2,500 square foot maximum accessory structure size, as described in Section 35-370, to allow a total of 4,180 square feet of accessory structures, 4) a 34 square foot variance from the 50% maximum paved front yard, as described in Section 35-515, to allow a total 1,010 square feet of paved surface in the front yard, 5) a two foot variance from the Mahncke Park Neighborhood Conservation District six foot maximum fence height to allow a fence to be eight feet tall on the east and west property line, and 6) a variance from the Mahncke Park Neighborhood Conservation Design requirement that a non-corner lot may have only one driveway to allow a second driveway on the west side of the property

Debora Gonzalez, Senior Planner, presented the background information, and staff's recommendations. She indicated 20 notices were mailed, 0 returned in favor, 2 returned in opposition and the Mahncke Park Neighborhood Association decision was pending.

Carlynn Ricks, 326 Pershing, chose not to comment at this time.

David Bogle, representative requested a continuance to May 7, 2018.

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-18-066 closed.

Mr. Martinez made a motion to continue item A-18-066 to May 7, 2018. Dr. Zottarelli seconded the motion. Mr. Kuderer then took a voice vote which passed unanimously.

MOTION TO CONTINUE IS GRANTED

Mr. Oroian reentered the meeting at 1:15pm.

Case Number:	A-18-045
Applicant:	Richard Rabago
Owner:	Richard Rabago
Council District:	7
Location:	5802 Bennington Drive
Legal Description:	Lot 15, Block 1, NCB 13862
Zoning:	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a four foot variance from the five foot side setback requirement as described in section 35.310.01, to allow a metal carport to be one foot from the side property line.

Dominic Silva, Planner, presented the background information and staff's recommendation of the variance. He indicated 17 notices were mailed, 0 returned in favor, and 2 returned in opposition with no response from the Thunderbird Hills Neighborhood Association.

Richard Rabago, applicant stated he inherited the house in 2013 and the carport was built in 1996. He also stated that he runs a small business out of his home and tools were stolen from his house and cars broken into and the carport offers security. Mr. Rabago then asked for approval.

The following Citizens appeared to speak.

Larry O'Neil, 2121 Darwin, 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-18-045 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-045, A request for a four foot variance from the five foot side setback requirement to allow a metal carport to be one foot from the side property line, situated at 5802 Bennington Drive, applicant being Richard Rabago.

I move that the Board of Adjustment grant the applicant a **2 foot from the 5 foot** setback 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 represented by the general health, safety and welfare of the public, 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 setback. Further, removing the entire structure 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. Further, the carport is made of metal and will not increase fire risk and will allow adequate room for maintenance without trespass. Therefore, the spirit of the ordinance will be observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not permit a use not authorized within the "R-5 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 requested variance will conform to the needs of this property and will not alter the essential character of the neighborhood as the carport maintains some space for maintenance and the material used does not detract from 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, 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 carport being built before the current owner occupied the residence." The motion was seconded by Mr. Britton.*

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	A-18-064
Applicant:	Joe F. Rodriguez
Owner:	Joe F. Rodriguez
Council District:	2
Location:	1452 S. WW White Road
Legal Description:	The West 281.7 Feet of Lot 52, NCB 10755
Zoning:	"C-3" General Commercial District
Case Manager:	Dominic Silva, Planner

Request

A request for an eight foot variance from the 15 foot Type C landscaped buffer yard requirements, as described in Section 35-510, to allow a buffer yard to be as narrow as seven feet.

Dominic Silva, Planner presented the background information and staff's recommendation of the variance. He indicated 17 notices were mailed, 1 returned in favor, and 0 returned in opposition. No response from the Dell Crest Neighborhood Association.

Joe F. Rodriguez, applicant was not present when case was presented.

Mr. Martinez made a motion to move Item #A-18-064 to the end of the meeting to give the applicant time to appear. Ms. Rogers seconded, a voice vote was taken and passed unanimously.

Case Number: A-18-068
Applicant: Julie Howard
Owner: Independent Electrical Contractors, San Antonio Chapter
Council District: 7
Location: 5511 Ingram Road
Legal Description: Lot 6, Block 7, NCB 14165
Zoning: "C-3 NCD-3 AHOD" General Commercial Ingram Hills Neighborhood Conservation Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for a parking adjustment, as described in Section 35-526, to allow a trade school to have up to 133 parking spaces.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 25 notices were mailed, 8 returned in favor, and 0 returned in opposition and no response from the Ingram Hills Neighborhood Association.

Justin Leak, representative gave a short history on the project and stated the trade school has had a surge in students and additional parking is needed. He explained all aspects of the projects were covered with the city including drainage 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-18-068 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-068, a request for a parking adjustment to allow a trade school to have up to 133 parking spaces, situated at 5511 Ingram Road, applicant being Julie Howard.

I move that the Board of Adjustment grant the applicant's request for the parking adjustment 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:

The proposed use of a Trade School requires more parking than the code allows and the public will be well served by allowing the use of additional parking spaces.” Ms. Cruz seconded the motion.

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

NAYS: Oroian

THE VARIANCE IS GRANTED

Case Number: A-18-067
Applicant: Jose Rolando Garza
Owner: Jose Rolando Garza
Council District: 1
Location: 1330 W. Mulberry
Legal Description: Lot 5, Block 85, NCB 3254
Zoning: “C-1 AHOD” Light Commercial Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a ten foot variance from the required Type B 15 foot landscaped bufferyard, as described in Section 35-510, along the east and west property lines to allow a bufferyard to be five feet deep and 2) a request for a five foot variance from the required ten foot side setbacks, as described in Section 35-310.01, to allow a development five feet from the east and west side property line.

Debora Gonzalez, Senior Planner, presented the background information, and staff’s recommendations. She indicated 14 notices were mailed, 1 returned in favor, 0 returned in opposition and no response from the Keystone Neighborhood Association.

Jose Rolando Garza, applicant stated he purchased the property a few years ago and due to illegal dumping that has caused him to speed up his project. He also stated no trees would be cut and an agreement was made with the church for additional parking.

No citizens signed in 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-18-067 closed.

MOTION

Mr. Finlay made a motion. “Regarding Appeal No A-18-067, a request for 1) a ten foot variance from the required Type B 15 foot landscaped bufferyard along the east and west property lines to

allow a bufferyard to be five feet deep and 2) a request for a five foot variance from the required ten foot side setbacks to allow a development five feet from the east and west side property line, situated at 1330 West Mulberry Avenue, applicant being Jose Rolando Garza.

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 served by setbacks, which help to provide consistent development within the City of San Antonio and is also represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The applicant sought staff's assistance with the project layout to best achieve their needs. The applicant is seeking variances to reduce both the east and west bufferyards and setbacks to five feet to allow the proposed structures to be placed square on the lot. These requests are not contrary to public interest as they do not negatively impact any surrounding properties or the general public.

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

Literal enforcement would not allow the owner to develop the site as it is nearly impossible, or would require a very small structure, which may not satisfy the needs of any tenants. The lot was originally intended for residential uses however, with the addition of the interstate highway, the property is no longer suitable for residential use; a commercial use is more appropriate, and deserves some relief.

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

The intent of the setback is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. In this case, the proposed setbacks and landscape bufferyard reduction will not injure the rights of adjacent property owners.

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 by the "C-1 AHOD" Light 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.*

The request should not injure the rights of the neighboring properties as the five foot setback for a new building and the five foot buffer would only enhance the overall appearance of the site, streetscape, and neighborhood.

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 in this case is the corner configuration lot which restricts the owner's ability to develop it without reducing setbacks and landscape bufferyard." Mr. Rodriguez seconded the motion.

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

NAYS: Oroian

VARIANCE IS GRANTED

Case Number:	A-18-065
Applicant:	David West
Owner:	David West
Council District:	10
Location:	7702 Woodridge Drive
Legal Description:	The South Irregular 227.2 Feet of Lot 1, Block 4, NCB 11863
Zoning:	"NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 389 square foot variance from the maximum 800 square foot floor area, as described in Section 35-371(b)(2), to allow a 1,189 square foot accessory detached dwelling unit, and 2) a request for a variance from the requirement that an accessory dwelling unit must be located in the side or rear yard, as described in Section 35-370(b)(6) to allow an accessory dwelling unit to be located in the front yard.

Dominic Silva, Planner, presented background information, and staff's recommendation of the variance requests. She indicated 31 notices were mailed, 2 returned in favor, 0 returned in opposition and no response from the Oak Park Northwoods Neighborhood Association.

David West, applicant stated he purchased the home for his parents and wants to build an accessory structure with a therapy room in the rear. He currently has a two story home and his mother cannot navigate the stairs so he decided to sale in favor of the one story.

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-18-065 closed.

MOTION

A motion was made by **Ms. Cruz**. "Regarding Appeal No A-18-065, a request for 1) a 389 square foot variance from the maximum 800 square foot floor area to allow a 1,189 square foot accessory detached dwelling unit, and 2) a request for a variance from the requirement that an accessory dwelling unit must be located in the side or rear yard to allow an accessory dwelling unit to be located in the front yard, situated at 7702 Woodridge Drive, applicant being David West.

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.*

Given the large lot size and setback of the proposed accessory dwelling unit, the variance is highly unlikely to be noticed from the public right-of-way.

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

Although the proposed accessory dwelling unit is set well within the lot and out of view of the public right-of-way due to dense foliage and bounded by mature trees, literal enforcement of the ordinance would result in the owner being unable to develop the project.

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

The Board finds that the accessory dwelling is not overwhelming in comparison to the principal structure and is situated within a lot of substantial size.

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 by the "NP-10 AHOD" Neighborhood Preservation 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 size of the accessory dwelling unit is proportional with the size of the principal dwelling and the size of the lot. Further, the accessory dwelling unit will comply with the one bedroom one bath requirement of the code.

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 of the property for which the variance is sought is due to the substantially large lot and the location the proposed accessory dwelling unit will be in relation to the principal structure.” The motion was seconded by Ms. Ojeda

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-070
Applicant:	Tranquilino Villalobos
Owner:	Tranquilino Villalobos
Council District:	1
Location:	567 Marchmont Lane
Legal Description:	Lot 1, Block 9, NCB 10958
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 14 foot and 11 inch variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an attached carport to be located 5 feet and one inch from the rear property line, 2) a four foot and eleven inch variance from the five foot side setback to allow an attached carport to be one inch from the side property line, and 3) a variance from the restriction against the use of corrugated metal as a fencing material, as described in Section 35-514, to allow for the use of corrugated metal for fencing.

Dominic Silva, Planner, presented background information, and staff’s recommendation of the variance requests. He indicated 29 notices were mailed, 0 returned in favor, 1 returned in opposition and no response from the North Central Neighborhood Association.

Tranquilino Villalobos, applicant requested Spanish interpretation, stated that the fence was installed 6 years ago and then constructed the porch. It wasn’t until then that he was cited for the fence which according to him does not cause a hazard. He wishes to keep the fence to keep his dog in the yard and protection from thieves.

The following citizens appeared to speak.

Hallie Green, 602 Marchmont, 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-18-070 closed.

A motion was made by **Mr. Oroian**. "Regarding Appeal No A-18-070, a request for a 1) a 14 foot and 11 inch variance from the 20 foot rear setback to allow an attached carport to be located 5 feet and one inch from the rear property line, 2) a four foot and eleven inch variance from the five foot side setback to allow an attached carport to be one inch from the side property line, and 3) a variance from the restriction against the use of corrugated metal as a fencing material to allow for the use of corrugated metal for fencing, situated at 567 Marchmont Lane, applicant being Tranquilino Villalobos.

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 variances requested are in harmony with the spirit of the code. No portion of the fence requested is in violation of the Clear Vision field. Further, the carport is built of metal, reducing fire spread.

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

A literal enforcement of the ordinance would preclude the applicant from utilizing covered parking, as well as screen the property for privacy and security.

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

With a rear alley present, the carport has adequate room to maintain without trespass, is made of materials that prevent fire spread, and adequately controls storm water runoff. Likewise, the fence does not violate the Clear Vision field and allows for greater privacy and security.

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.*

With adequate setbacks maintained, a rear alley present, and material matching existing structures, the variances requested will not injure the adjacent conforming properties.

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 lack of developable space existing within the moderate-sized rear property and are not due to the general conditions of the district.” Mr. Martinez seconded the motion.

Mr. Martinez made a friendly amendment to exclude corrugated metal **3)** a variance from the restriction against the use of corrugated metal as a fencing material to allow for the use of corrugated metal for fencing, situated at 567 Marchmont Lane **and Mr. Oroian accepted his amendment. A voice vote was taken and passed unanimously.**

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

NAYS: Oroian

THE VARIANCE IS GRANTED

NO MOTION WAS MADE FOR ITEM #3 AND DIES DUE TO A LACK OF MOTION.

The Board of Adjustment convened at 2:45pm for a 10 minute break and reconvened at 2:55pm

Case Number:	A-18-069
Applicant:	Evening Star Real Estate, LLC
Owner:	Daniel Arredondo
Council District:	1
Location:	50 West Sunset Road
Legal Description:	Lot 93, NCB 11888
Zoning:	“C-1 AHOD” Light Commercial Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a 24 foot variance from the 30 foot rear setback, as described in Section 35-310.01, to allow a shed to be six feet from the rear property line and 2) a six foot variance from the ten foot side setback, as described in Section 35-310.01, to allow a new addition to be four feet away from the eastern property line.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance request. She indicated 12 notices were mailed, 0 returned in favor, 0 returned in opposition and no neighborhood association.

Ashley Farmin, representative stated the owner wants keep the same footprint of the property but a restroom and kitchen and removing the shed. She gave a brief presentation and stated all the codes of the UDC will be followed.

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-18-069 closed.

MOTION

A motion was made by **Dr. Zottarelli**. "Regarding Appeal No A-18-069, a request for 1) a 24 foot variance from the 30 foot rear setback to allow a shed to be six feet from the rear property line and 2) a six foot variance from the side setback to allow a new addition to be four feet away from the eastern property line, situated at 150 West Sunset Road, applicant being Daniel Arredondo.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking variances to allow a six foot setback on the rear property line and a four foot side setback. These requests are not contrary to public interest as they do not negatively impact any surrounding properties or the general public.

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

Literal enforcement would not allow the owner to redevelop the existing structures as intended. Approval of the requested variances would provide adequate room for maintenance and would provide enough separation for fire spread and rainwater runoff. Since the existing structures placement, no problems have been generated with adjacent properties.

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

The intent of rear and side setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. In this case, the proposed setback reduction will not injure the rights of adjacent property owners, which observes the intent of the code.

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 by the “C-1 AHOD” Light 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. These requests should not injure the rights of the neighboring properties as the six foot rear setback and the four foot side setback would allow for the redevelopment of the structures and will only enhance the property.*
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 in this case is the nonconforming status of the existing improvements. Staff finds that allowing their renovation is not merely financial in nature, nor is it the fault of the property owner.” Mr. Teel seconded the motion.*

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	A-18-071
Applicant:	Deborah Sheppard
Owner:	Deborah Sheppard
Council District:	1
Location:	212 East Rosewood Avenue
Legal Description:	Lots 6, 7, and 8, Block 4, NCB 6728
Zoning:	“MF-33 H AHOD” Multi-Family Monte Vista Historic Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a two foot five inch variance from the five foot side setback, as described in Section 35-310.01, to allow a new attached garage to be located two feet and seven inches from the side property line, 2) a nine foot and eleven inch variance from the ten foot rear setback, as described in Section 35-310.01, to allow a new attached garage to be located one inch from the rear property line, and 3) a request for a 19 foot and eleven inch variance from the 20 foot garage setback requirement, as described in Section 35-516(g), to allow a garage to be one inch from the property line.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance request. She indicated 24 notices were mailed, 2 returned in favor, 0 returned in opposition and the Monte Vista Neighborhood Association is in favor.

Deborah Sheppard, requested to build a garage in the current footprint. Ms. Sheppard was under the impression the street was an alley, therefore the variance is needed 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-18-071 closed.

MOTION

A motion was made by **Dr. Zottarelli**. "Regarding Appeal No A-18-071, a request for 1) a two foot five inch variance from the five foot side setback to allow a new attached garage to be located two feet and seven inches from the side property line and 2) a nine foot and eleven inch variance from the ten foot rear setback to allow a new attached garage to be located one inch from the rear property line and 3) a request for a 19 foot and eleven inch variance from the 20 foot garage setback requirement to allow a garage to be one inch from the property line, situated at 212 East Rosewood Avenue, applicant being Deborah Sheppard.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. In this case, the variances are not contrary to the public as the structure provides room for maintenance from the side property line and is not different from similar structures in the immediate vicinity.

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

Literal enforcement would result in the removal of the entire parking garage. The established parking configuration along this narrow street calls for rear entry garages and carports located very near the rear property line, and often less than three feet from the side property lines.

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, rather than the strict letter of the law. The intent of the code is to provide for consistent development and 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 by the “MF-33 H AHOD” Multi-Family Monte Vista Historical 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 older neighborhoods such as this, it is common for homeowners to improve and renovate structures within the side and rear setbacks established by the current Unified Development Code. The requests will not detract from the character of the district. The proposed garage will be in the rear of the home, not affecting the public right-of-way or the clear vision ordinance. Within the time span the original garage has been in place, there has been no observed harm done to adjacent properties. Therefore, it is unlikely the request will injure the adjacent properties.

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 property is that the proposed structure was originally built in the current location as a three-car garage, in line with the rear property line. As there are other garages in the rear yard access street, it is more feasible to build on the existing building pad than elsewhere in the rear yard.” Mr. Oroian seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	A-18-081
Applicant:	Richard Hinojosa
Owner:	Richard Hinojosa
Council District:	2
Location:	434 Pershing Avenue
Legal Description:	Lot 17, 18, and 19, Block 1, NCB 6524
Zoning:	“R-4 NCD-6 AHOD” Single-Family Residential Mahncke Park Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a 19.55 foot variance from the required 31.19 foot median blockface front setback, as described in the Mahncke Park Neighborhood Conservation District design guidelines, to allow a new residential unit to be 11.64 feet from the property line.

Debora Gonzalez, Senior Planner, presented background information, and staff's recommendation of the variance request. She indicated 22 notices were mailed, 1 returned in favor, 1 returned in opposition and the Mahncke Park Neighborhood Association is in opposition.

Richard Hinojosa, stated when he originally started the project he went thru all proper channels and was given the approval to build. It was later that the City found an error and found the project to not be in compliance and feels the variance should be granted.

The Following Citizens appeared to speak.

Carlynn Ricks, **326 Pershing**, 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-18-081 closed.

MOTION

A motion was made by **Ms. Ojeda**. "Regarding Appeal No A-18-081, a request for a 19.55 foot variance from the required 31.19 foot median blockface front setback to allow a new residential unit to be 11.64 feet from the property line, situated at 434 Pershing Avenue, applicant being Richard Hinojosa.

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 setbacks that maintain neighborhood character. The 11.64 feet front setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
If enforced, the ordinance would significantly increase physical hardship for the subject owner.
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, rather than the strict letter of the law. The intent of the code is to establish a cohesive theme. The request to reduce the front setback observes the intent of the code as the property complies with other requirements in neighborhood design.

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 by the "R-4 NCD-6 AHOD" Single-Family Residential Mahncke Park Neighborhood Conservation 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 request will not injure the rights of neighboring properties as the reduction does not detract from the character of the neighborhood.*
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 here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located."*
Mr. Britton seconded the motion.

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

THE VARIANCE IS GRANTED.

Mr. Martinez made a motion to continue case #A-18-064 to May 21st 2018. Ms. Ojeda seconded the motion. Mr. Kuderer asked for a voice vote which passed unanimously.

Mr. Kuderer made a motion to approve the April 2, 2018 minutes with all members voting in the affirmative.

Manager's report: A briefing was given on the status of the Board of Adjustment Alternates.

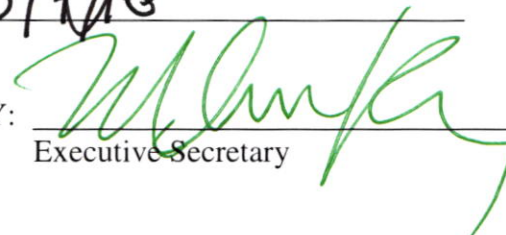
There being no further discussion, meeting adjourned at 3:50 p.m.

April 16, 2018

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APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 5/7/18

ATTESTED BY:  DATE: May 9, 18
Executive Secretary