

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 1, 2018**

Draft

Members Present: Dr. Zottarelli
Alan Neff
Cyra M. Trevino
George Britton Jr
Maria Cruz
Seth Teel
Mary Rogers
Donald Oroian
John Kuderer
Roger Martinez
Henry Rodriguez
Roy Schuafelle

Staff:
Catherine Hernandez, DSD Administrator
Joseph Harney, City Attorney
Logan Sparrow, Interim DS Manager
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.

Fernando Jorge, 234 W. Sunset, World Wide Languages-Interpreter, present

Case Number: A-18-115
Applicant: Jennifer Hansen
Owner: Jerry and Wilhelmina Hansen
Council District: 2
Location: 208 Sherman Street
Legal Description: The East 24.5 feet of the West 81.5 feet of Lot 1, Block 25, NCB 512
Zoning: "R-4 H AHOD" Residential Single-Family Dignowity Hill Historic
Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for 1) a 9' variance from the 10' front setback, as described in Section 35-310.01, to allow a structure to be 1' away from the front property line, 2) a 1'6" variance from the 5' side setback requirements to allow a structure to be 3'6" away from the side property lines, 3) a 10' variance from the 20' rear setback requirement to allow a structure to be 10' away from the rear property line, 4) a 2,800 square foot variance from the 4,000 square foot minimum requirement, also described in Section 35-310.01, to allow a structure to be built on a 1,200 square foot lot,

and 5) a waiver of the parking requirement, as described in Section 35-526, to allow a single-family lot with no parking.

Dominic Silva, Planner presented the background information and staff's recommendation of the Variance. He indicated 25 notices were mailed, 0 returned in favor, and 1 returned in opposition and no response from Dignowity Hills Neighborhood Association.

Jerry Hansen, 366 Ave Maria Drive, stated he wishes to rebuild the home to its original state, footprint, answered all questions from the Board 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-18-115 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-115, a request for 1) a 9' variance from the 10' front setback to allow a structure to be 1' away from the front property line, 2) a 1'6" variance from the 5' side setback requirements to allow a structure to be 3'6" away from the side property lines, 3) a 10' variance from the 20' rear setback requirement to allow a structure to be 10' away from the rear property line, 4) a 2,800 square foot variance from the 4,000 square foot minimum requirement to allow a structure to be built on a 1,200 square foot lot, and 5) a waiver of the parking requirement to allow a single-family lot with no parking, situated at 208 Sherman Street, applicant being Jennifer Hansen.

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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space. Staff finds the request is not contrary to the public interest in that the requested setbacks largely maintain what has been in place for years, is similar to other setbacks within the historic district, and follows the previous shotgun structure prior to the demolition in 1996. Similarly, the lot size and request to waive the request for on-site parking is similar to other residences within the district.

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

A literal enforcement of the ordinance would render the property nearly undevelopable. Staff finds that relief is warranted. The small lot configurations are the

result of an old subdivision and the lots are similar to the lot scheme of the historic district. Further, the applicant has proposed to orientate the structure that is consistent with the development pattern found on the block currently.

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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved. Staff finds that a literal enforcement of the ordinance would result in unnecessary hardship as the variances will not permit massing that is not found elsewhere in the neighborhood.

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

The requested variance will not permit a use not authorized within the “R-4 H AHOD” Residential Single-Family Dignowity Hill 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the proposed residential structure is following a district norm of reduced setbacks for all houses built within the area as well as off-street parking.

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

The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of reduced lot sizes within the district is uniform, leaving little room for proper building setbacks and on-site parking. This is created by the proliferation of older, outdated substandard lots currently zoned “R-4.” Mr. Martinez seconded the motion.

Mr. Oroian questioned Mr. Hansen request for rebuilding the home in its original footprint.

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

NAYS: Oroian

THE VARIANCES ARE GRANTED

Case Number: A-18-143
Applicant: Claudia Reyes
Owner: Claudia Reyes
Council District: 1
Location: 1214 Waverly Avenue
Legal Description: Lot 2, Block 16, NCB 2056
Zoning: "R-4 NCD-8 AHOD" Residential Single-Family Woodlawn Lake
Neighborhood Conservation Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 7.1' variance from the Woodlawn Lake Neighborhood Conservation District design requirement of a minimum 20' front setback to allow a structure to be 12.9' from the front property line.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 27 notices were mailed, 2 returned in favor, and 0 returned in opposition and Woodlawn Lake Neighborhood Association is opposed.

Claudia Reyes, 1214 Waverly, applicant stated the porch was built by her family and was unaware of the rules and code.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No A-18-143 closed.

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-143, a request for a 7.1' variance from the Woodlawn Lake Neighborhood Conservation District design requirement of a minimum 20' front setback to allow a structure to be 12.9' from the front property line, situated at 1214 Waverly Avenue, applicant being Claudia Reyes.

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 12.9' 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 because the NCD stress the protection of front porches. The design will comply with the balance of the NCD design requirements.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the “R-4 NCD-8 AHOD” Residential Single-Family Woodlawn Lake 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 plight of the owner for which the variance is sought is due to the front yard porch addition. The existing addition leaves ample space in the front yard and does not significantly alter existing conditions of the community. ” Mr. Martinez seconded the motion.

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

THE VARIANCE IS GRANTED

Case Number: A-18-146
 Applicant: Jorge R. Sanchez Jr.
 Owner: Jorge R. Sanchez Jr.
 Council District: 7
 Location: 434 North Drive
 Legal Description: Lot 20 and the West 27 feet of Lot 19, NCB 7070

Zoning: "R-6 H AHOD" Residential Single-Family Monticello Park Historic
Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for a 4'11" variance from the 5' side setback, as described in Section 35.310.01, to allow an overhang to be 1" away from the side property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 20 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Monticello Neighborhood Association.

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-18-146 closed.

Dr. Zottarelli, made a motion. "Regarding Appeal No A-18-146, a request for a 4'11" variance from the 5' side setback to allow an overhang to be 1" away from the side property line, situated at 434 North Drive, applicant being Jorge R. Sanchez Jr.

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 37" roof extension matches the existing pitch, height, and shingle composition of the previous overhang and follows all stipulations required by the approved Historic Design Review Commission Certificate of Appropriateness. Additionally, storm water runoff will be controlled via mature vegetation separating the applicant's lot to the adjacent that offer storm water minimization onto neighboring properties. The Board finds the request is not contrary to the public interest.
- 2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Due to the finalized construction of the roof extension, a literal enforcement of the ordinance would result in unnecessary hardship by requiring removal of that portion of the roof overhang that extends into the side yard setback.
- 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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.

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

The requested variance will not permit a use not authorized within the “R-6 H AHOD” Residential Single-Family Monticello Park 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The applicant’s property is located within the Monticello Park Historical District which predominantly features hipped and gabled roofs along with walkways that extend from the front driveway along the residence to the rear property. The new architectural features of the extended roof extension match the existing roof shingles, slope, and height.

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

The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner originates from the layout of the residence within the property and lack of cover from inclement weather many properties currently enjoy.” Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-148
Applicant:	Glennard Lunbery
Owner:	Glennard Lunbery
Council District:	7
Location:	223 West Quill Drive
Legal Description:	The South 228.57 feet of the West 246.1 feet of Lot 15, Block A, NCB 11531
Zoning:	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request to allow an accessory structure to be located within the front yard, as described in Section 35-516.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 13 notices were mailed, 0 returned in favor, and 0 returned in opposition and the Woodlawn Hills Neighborhood Association is opposed.

Glennard Lunbery, 223 West Quill, stated due to the fact the property slopes and many trees he is limited as to where to place the garage.

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-18-148 closed.

Mr. Rodriguez made a motion. "Regarding Appeal No A-18-148, a request to allow an accessory structure to be located within the front yard, situated at 223 West Quill Drive, applicant being Glennard Lunbery.

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 proposed garage within the front property is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The garage will be surrounded by large mature vegetation on all property sides and is not noticeable to the passersby until entering into the applicant's property.

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

Due to the unique secluded nature of the property and deviations in elevation, a literal enforcement of the ordinance would result in unnecessary hardship by altering the properties landscape in order to place any future garages within the rear and side of the property.

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 requirement rather than the strict letter of the law. The proposed garage is not overwhelming in size compared to the principal

structure will be hidden from right-of-way view due to the secluded layout of the property.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the “R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 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 property is uniquely situated between a vacant property, church, commercial charter school, and other secluded large lots. A garage within the front property out of view from right-of-way traffic will not injure the appropriate use of adjacent conforming properties or alter the character of the district.

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

The variance being sought is due to the uniquely secluded layout of the property and frontage onto West Sunshine Drive, leaving a large portion of the applicant’s lot as the front. Additionally, the topography of the property has deviations extending from east to west, leaving limited options on the placement of any future structure. The unique circumstances were not created by the owner and are not merely financial in nature.”

Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed at 2:12pm for a break and reconvened at 2:22pm.

Case Number: A-18-149
 Applicant: Sheila Rogel
 Owner: Sheila Rogel
 Council District: 5
 Location: 413 and 415 Collingsworth Avenue
 Legal Description: Lot 14, NCB 7067

Zoning: "RM-4 MLOD-2 MLR-2 AHOD" Residential Mixed Camp Bullis
Military Lighting Overlay Military Lighting Region 2 Airport Hazard
Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 6' variance from the 10' rear setback requirement, as described in Section 35-310.01, to allow a structure to be 4' away from the rear property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 28 notices were mailed, 0 returned in favor, and 0 returned in opposition no registered neighborhood association.

Sheila Rogel, 413 & 415 Collingsworth,

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-18-149 closed.

Ms. Cruz made a motion. "Regarding Appeal No A-18-151, a request for a 2' variance from the 5' side setback to allow a carport to be 3' from the side property line, situated at 137 Bailey Avenue, applicant being Eva Velarde.

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

Specifically, we find that:

1. *The variance is not contrary to the public interest.*

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

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

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

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

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

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

The variance will not authorize the operation of a use other than those uses specifically authorized by 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 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 circumstances existing on the property is that the existing carport has been in the same location without any alterations for at least 14 years without any complaints. The carport leaves space in the front yard and it does not significantly alter existing conditions of the community.” Mr. Rodriguez seconded the motion.

Ms. Rogers made a motion for a 4 foot variance and Mr. Martinez seconded the motion. Mr. Cruz accepted the motion. A roll call vote was taken

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

NAYS: None

Mr. Kuderer called for the main motion vote.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-18-151
Applicant: Eva Velarde
Owner: Eva Velarde
Council District: 3
Location: 137 Bailey Avenue

Legal Description: Lot 21, Block 79, NCB 3347
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow a carport to be 1" from the side property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 26 notices were mailed, 2 returned in favor, and 0 returned in opposition and no response from Highland Park Neighborhood Association.

Eva Velarde, 137 Bailey Avenue, stated she built the carport 15 years ago because of her Neighbors fruit trees that attract birds and Rodents. She also wanted protection from the weather for her family and for family gatherings.

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-18-151 closed.

Ms. Trevino made a motion. "Regarding Appeal No A-18-151, a request for a 4'11" variance from the 5' side setback to allow a carport to be 1" from the side property line, situated at 137 Bailey Avenue, applicant being Eva Velarde.

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

Specifically, we find that:

1. *The variance is not contrary to the public interest.*

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

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

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

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

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

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

The variance will not authorize the operation of a use other than those uses specifically authorized by 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 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 circumstances existing on the property is that the existing carport has been in the same location without any alterations for at least 14 years without any complaints. The carport leaves space in the front yard and it does not significantly alter existing conditions of the community.” Mr. Rodriguez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-18-152
 Applicant: Adrian O’Brian
 Owner: Adrian O’Brian
 Council District: 7
 Location: 6202 Hollyhock Road
 Legal Description: Lot 118, Block 1, NCB 17226
 Zoning: “PUD MF-33 AHOD” Planned Unit Development Multi-Family
 Airport Hazard Overlay District
 Case Manager: Dominic Silva, Planner

Request

A request for a 9'11" variance from the 10' rear setback, as described in Section 35.310.01, to allow an addition to be as close as 1" away from the rear property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 20 notices were mailed, 0 returned in favor, and 5 returned in opposition and the Alamo Farmstead Babcock Road Neighborhood Association is opposed.

Lyndon Duano, TCI, 1901 S. Alamo, answered the Boards questions regarding flood plains, retention ponds and additions to the home.

Adrian O'Brian, 6202 Hollyhock Road, stated the proposed addition of 4000 square feet is not going to be in the flood zone and should not cause a problem. He stated a two story was not an option and wanted to keep his options open for a potential use of a Veterans facility in the future.

The following citizens appeared to speak.

Rebecca Skidmore, 6281 Hollyhock, spoke in opposition.

Phillip Manna, 9525 Roschelle, Alamo Farmstead Babcock Road Neighborhood Association, spoke in opposition.

Stuart Vance, 9616 Strathaven, spoke in opposition.

Betty Ledesma, 9606 Strathaven, spoke in opposition.

Medford Jones, 9306 Windsor Park, spoke in opposition.

May Ballard, 9811 Strathaven, spoke in opposition.

Kay Scroggins, 9803 Strathaven, spoke in opposition.

Jason O'Brien, 25402 Drew Gap, spoke in favor.

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-18-152 closed.

Mr. Oroian questioned the O'Brian's setbacks request

Mr. Britton spoke about possibly amending his request.

Mr. Kuderer stated the outpouring of the neighborhood is compelling.

Mr. Rodriguez also stated the outpouring of the neighborhood is compelling.

Mr. Martinez made a motion. "Regarding Appeal No A-18-152, a request for a 9'11" variance from the 10' rear setback to allow a structure to be as close as 1" away from the rear property line, situated at 6202 Hollyhock Road, applicant being Adrian O'Brian.

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.*

In this case, the addition will provide adequate habitable living space while also maintaining ample space within the property for accessibility to light, air, and open space. Staff finds the request is not contrary to the public interest. Further, the addition for which the variance is pertaining to is located within the rear of the subject property at only two corner locations and out of sight to right-of-way traffic.

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

Due to the limited space of the existing primary dwelling, coupled with the various easements to the east and west within the applicant's property, a literal enforcement of the ordinance would result in unnecessary hardship by significantly reducing the amount of developable space on this site.

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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. Given that the space to the rear of the applicant's property is reserved as parks open space within a flood zone prohibiting development and the large lot size of the applicant, staff finds that there is adequate space to observe this law if approved.

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

The requested variance will not permit a use not authorized within the "PUD MF-33 AHOD" Planned Unit Development Multi-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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the addition in which the variance will be granted is to the rear of the home and not visible from the front yard. The lot to the rear is owned by the City of San Antonio and classified as parks open space which cannot be developed upon.

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

The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner stems the presence of the Huebner Creek flood zone and the extensive easements to the east and west within the applicant's property." Mr. Oroian seconded the motion.

AYES: None

NAYS: Martinez, Oroian, Rogers, Neff, Trevino, Cruz, Britton, Rodriguez, Dr. Zottarelli, Teel, Kuderer

THE VARIANCE FAILS

Mr. Kuderer made a motion to approve the September 17, 2018 minutes. Mr. Martinez seconded the motion. Mr. Kuderer called for a roll call vote as corrected.

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

NAYS: None

THE MINUTES ARE APPROVED

Manager's report: None

There being no further discussion, meeting adjourned at 4:38 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT