

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 17, 2015**

Members Present:

Andrew Ozuna
Mary Rogers
Frank Quijano
Gabriel Velasquez
Maria Cruz
Jesse Zuniga
Roger Martinez
John Kuderer
Gene Camargo
Christopher Garcia
Henry Rodriguez
Jeffrey Finlay

Staff:

Margaret Pahl, Senior Planner
Logan Sparrow, Senior Planner
Kristen Flores, Planner
Paul Wendland, City Attorney

Call to Order

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

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

CASE NO. A-15-136

Applicant – Edward Adams
Lot 19, Block 36, NCB 1868
1005 West Russell Place

Zoning: “R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood
Conservation Airport Hazard Overlay District

The applicant is requesting a special exception to allow the relocation of a residential building, as described in Section 35-399.03, from 901 Iowa Street to a lot located at 1005 West Russell Place.

Kristen Flores, Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 25 notices were mailed, 2 were returned in favor and none were returned in opposition and a letter in favor was received from the Beacon Hill Neighborhood Association.

Edward Adams, applicant, stated the lot would benefit from having the house moved onto this location and the neighborhood association is in support of the house relocation. He also stated the vacant lot has been a known location for dumping trash. He further stated he has hired a licensed and bonded company to proceed with the house relocation.

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-15-136 closed.

MOTION

A motion was made by **Mr. Rodriguez**. “Re Appeal No. **A-15-136**, Application for a **special exception to allow the relocation of a residential building, as described in Section 35-399.03, from 901 Iowa Street to a lot located at 1005 West Russell Place**, subject property description **Lot 19, Block 36, NCB 1868**, located at **1005 West Russell Place**, applicant being **Edward Adams**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-136**, Application for a Special Exception for the subject property as described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UD 35-399.03. Specifically, we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **the applicant is proposing to relocate a structure to a vacant lot and intends to renovate the structure to meet current buildings codes. Permits for electrical service and new plumbing are planned. A residential use on this vacant lot is preferred, given the neighborhood is largely composed of residential dwellings. Therefore, granting the special exception will be in harmony with the spirit and purpose of the chapter and will adhere to the Beacon Hill Neighborhood Conservation District requirements.** The public welfare and convenience will be substantially served in that **the public welfare and convenience will be substantially served by the relocation. The structure will be used as a single family home, as permitted within the “R-6” base zoning district by making use of an undeveloped parcel within a neighborhood that could benefit from incremental revitalization.** The neighboring property will not be substantially injured by such proposed use in that **the addition of this home will add integrity to the streetscape, bring families to the block and convert a vacant lot into a personal yard. The proposed home will not negatively impact the neighboring property.** The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **the homes in this area are small, modest homes that are well maintained and contribute to the character of the district. The proposed craftsman home is similar in size and character.** Therefore, the special exception authorizing the relocation will not alter the essential character of the district. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the special exception will not weaken the general purpose of “R-6” base zoning district, a district designed to support residential land uses. The site plan submitted by the applicant shows the proposed placement of the home will satisfy the minimum front, side and rear yard setbacks of the district. In addition, the home will satisfy the**

requirements of the Beacon Hill Neighborhood Conservation District adding to the overall character of the community.” The motion was seconded by Ms. Rogers.

AYES: Velasquez, Rogers, Quijano, Velasquez, Garcia, Cruz, Zuniga, Kuderer, Martinez, Camargo, Ozuna

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-133

Applicant – Tony Gradney

4.2 feet of B, all of Lot C and the North 46.5 feet of Lot D, Block 11, NCB 540

821 North Pine Street

Zoning: “R-5 H AHOD” Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District

The applicant is requesting 1) a 1 foot and 2 inch variance from the 4 foot maximum front yard predominately open fence height limitation, as described in Section 35-514 (d), to allow a 5 foot and 2 inch wrought iron fence and 2) a 1 foot 8 inch variance to allow a 5 foot 8 inch gate in the front yard of the property.

Kristen Flores, Planner, presented background and staff’s recommendation of approval of the variances. She indicated 32 notices were mailed, 4 were returned in favor and none were returned in opposition.

Tony Gradney, applicant, stated they have been numerous break-ins and vandalism in the neighborhood. He also stated they have obtained approval for the fence and posts from the Historic Design and Review Committee.

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-15-133 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-15-133**, variance application for 1) a **1 foot and 2 inch variance from the 4 foot maximum front yard predominately open fence height limitation, as described in Section 35-514 (d), to allow a 5 foot and 2 inch wrought iron fence and 2) a 1 foot 8 inch variance to allow a 5 foot 8 inch post support for the gate in the front yard of the property**, subject property description being the **4.2 feet of B, all of Lot C and the North 46.5 feet of Lot D, Block 11, NCB 540**, situated at **821 North Pine Street**, applicant being **Tony Gradney**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-133**, application for a variance to the subject

property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, these criteria are represented by fence height limitations to protect home owners, and also to provide for a sense of community. The area is currently known to experience a higher crime rate and the extension of the fence allows greater security thus is not contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special condition present in this case is the protection of property from criminal activity.** The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variance would result in substantial justice as the variance would allow the applicant to adequately protect his home from crime in the community.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **this variance request does ask for any use outside of the “R-5 H AHOD” Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District.** Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **staff noted that it is within the character of the community for there to be a wrought iron fences and does not detract from character of the community.** 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 in that **the unique circumstance present in this case is the protection of home and property. Also the house is of a scale that does prescribe a fence in character of the house itself that defines the character in that community. Exhibit A is referenced as submitted by the applicant.”** The motion was seconded by Mr. Martinez.

AYES: Velasquez, Martinez, Quijano, Rodriguez, Garcia, Cruz, Zuniga, Kuderer, Camargo, Rogers, Ozuna

NAYS: None

THE VARIANCES ARE GRANTED.

Board members recessed for ten minutes.

CASE NO. A-15-135

Applicant – Brown & Ortiz, PC
Lots 1 & 2, Block 32, NCB 17643
9418 & 9526 W Military Drive
Zoning: “C-2 AHOD” Commercial Airport Hazard Overlay District

The applicant is requesting 1) a one foot variance from the six foot maximum fence height, as described in Section 35-514, to allow for the construction of a seven foot tall wall along a portion of the property; and 2) a two foot variance from the maximum six foot fence, also described in Section 35-514, to allow columns eight feet in height.

Logan Sparrow, Senior Planner, presented background and staff's recommendation of approval of the variances. He indicated 48 notices were mailed, one was returned in favor and one was returned in opposition and no response from the Enclave at Westover Hills Neighborhood Association.

The following citizens appeared to speak:

Eric Sanchez, citizen, spoke in opposition.

Jenna Garza, citizen, expressed her concerns with

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-15-135 closed.

MOTION

A motion was made by **Ms. Rogers made a motion to continue this case until the next regularly scheduled meeting on September 21, 2015.** The motion was seconded by **Ms. Cruz.**

AYES: Rogers, Cruz, Quijano, Rodriguez, Velasquez, Garcia, Zuniga, Kuderer, Camargo, Martinez, Ozuna

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-128

Applicant – Archdale Properties, LLC

E 42.1 ft of 124 & W 42.2ft of 125 & W IRR 8. 77ft of E 84.4ft of 125, Block 6, NCB I 0667
222 Seale Road

Zoning: "1-2 AHOD" Heavy Industrial Airport Hazard Overlay District

The applicant is requesting a seven foot variance from the 100 foot wide minimum lot width, as described in 35-310.01 (b), to allow a lot to be 93 feet wide.

Kristen Flores, Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 11 notices were mailed, none were returned in favor and none were returned in opposition.

Peter Gerooge, applicant, stated he will be replatting the property to make it one legal lot.

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-15-128 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-15-128**, variance application for a **seven foot variance from the 100 foot wide minimum lot width, as described in 35-310.01 (b), to allow a lot to be 93 feet wide**, subject property description **the E 42.1 ft of 124 & W 42.2 ft of 125 & W IRR 8. 77 ft of E 84.4 ft of 125, Block 6, NCB 10667, situated at 222 Seale Road**, applicant being **Archdale Properties, LLC**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-128**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **the public interest is defined as the general health, safety, and welfare of the public. In this case, these criteria are represented by minimum lot size requirements to ensure adequate space for industrial development. The subject property is located in a largely industrial area with generous side, rear, and front setbacks. The applicant is requesting a 7 foot variance from the minimum lot width of 100 feet in order to re-plat the adjacent lots and further develop the property. The applicant must have the variance approved before he can complete the re-platting process. The request will not be contrary to the public interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the special condition present in this case is the inability of the applicant to re-plat and further develop his property with the current “I-2” base zone. The applicant wishes to expand his business through the proper channels. However, the subject property, as it stands now, is not wide enough to meet the minimum width requirements of the “I-2” zoning. The spirit of the ordinance is observed and substantial justice is done in that granting the requested variance would result in substantial justice as the variance would allow the applicant to re-plat and further develop his lot with the current “I-2” zoning. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-2 AHOD” Heavy Industrial Airport Hazard Overlay District. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that the subject property is industrial and surrounded by other industrial uses. As a higher intensity use, industrially zoned properties have larger setbacks than many other base zones to ensure adequate separation and safety. Staff finds the request does not detract from the character or safety of the block. 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 in**

that the unique circumstance in this case is the inability of the applicant to develop his property under the current "I-2" base zone. The applicant owns lots which, when originally zoned and platted, were not required to adhere to a minimum lot width. The applicant wishes to re-plat the two adjacent lots, but, due to the initial platted lot size and past lot divisions, the subject property does not meet the minimum lot width requirement of the current "I-2" base zone. Staff finds providing a variance from the minimum lot width requirements of "I-2" is a legitimate request that is not merely financial in nature, nor the fault of the owner of the property." The motion was seconded by Mr. Garcia.

AYES: Velasquez, Martinez, Quijano, Rodriguez, Garcia, Cruz, Kuderer, Camargo, Rogers, Ozuna

ABSTAIN: Zuniga

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-129

Applicant – Hugo Xavier de Los Santos

Lots 15 & 16, Block 11, NCB 34725B

19315 Havasu Hills

Zoning: "R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District

The applicant is requesting 1) a 10 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow a building addition 10 feet from the rear property line and 2) a variance from the 35 foot height limitation, also described in Section 35-310.01, to allow for the construction of a three story addition exceeding the height limitation..

Logan Sparrow, Senior Planner, presented background and staff's recommendation of approval of the variances. He indicated 30 notices were mailed, 2 were returned in favor and 7 were returned in opposition and no response from the Legend Hills Neighborhood Association.

Hugo Xavier De Los Santos, applicant, stated he began the project years ago before annexation but due to insufficient funds the project had to be put on hold. He also stated additional space is needed to accommodate his growing family. He further stated

The following citizens appeared to speak:

Christine Johnson, citizen, spoke in opposition.

Ralph Domas, citizen, spoke in opposition.

Michael Yowell, citizen, 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-15-129 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-15-129**, variance application for 1) a **10 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow a building addition 10 feet from the rear property line and 2) a variance from the 35 foot height limitation, also described in Section 35-310.01, to allow for the construction of a three story addition exceeding the height limitation**, subject property description **Lots 15 & 16, Block 11, NCB 34725B**, situated at **19315 Havasu Hills**, applicant being **Hugo Xavier de Los Santos**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-129**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **the public interest is represented by height limitations to prevent non-uniform development within residential communities, and by setbacks to ensure adequate fire separation distances and fair and equal access to air and light. The request for the third story addition is not contrary to the public interest in that the third story does not conflict with the development of the community. This subdivision was built prior to annexation into San Antonio. During field visits, staff found the presence of several two and a half and three story dwellings within the community. The topography of the site forces the building height to exceed that of the rest of the dwelling based on its placement on the lot. The location of the addition was selected because, while it is the highest point of the lot, it is also the most even-surfaced, making it the easiest portion of the lot to build upon. When measured from the floor of the addition, the structure would be 34.68 feet tall, which meets the 35 foot height limitation. However, the Unified Development Code states that measurement starts at the dirt and measures to the highest point of the structure. On the sloping lot, the highest measured point would be 44 feet tall. The applicant purchased the property in 1987 and, six years later, after years of the lot behind them sitting vacant, purchased it in 1993. The second lot has even more dramatic topographical barriers to development, making future development of the site unlikely. The applicant fenced in the second lot the same year and the lot has acted as a large rear yard for the property since, a total of 22 years. The applicant began the addition to the home prior to annexation, which occurred in 1999, and has only recently resumed work on the addition. The slab was laid for the addition prior to annexation, and was laid within ten feet of the rear property line. As the applicant also owns the property to the rear of the addition, the property owner most directly affected by the variance request is the applicant himself. Therefore, staff finds that the request is not contrary to the public interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that a literal enforcement of the ordinance would result in the applicant, and his architect, having to redesign the addition. Staff noted the presence of several other two and a half story or three story homes within the community, likely built to add space in the presence of unique topographical features common within this northwest community. The special condition present in this case**

related to the setback variance request is that this addition was started before annexation, when the City of San Antonio did not regulate development within this community. Granting the requested variances will allow the applicant to finish the project that he started years ago, in the manner of which it was originally designed. The spirit of the ordinance is observed and substantial justice is done in that by granting the variances, the spirit of the ordinance will be observed and substantial justice will be done in that the applicant would be permitted to build an addition to the existing house that is not dissimilar to other dwellings within the subdivision. Further, reducing the rear setback would allow the applicant to develop the structure upon the foundation that was laid years ago. The Board should consider that several residential districts, per Section 35-310.01, permit single-family dwellings to have ten foot rear setbacks. Additionally, justice will be served as the property most directly affected by the proposed addition is the applicant. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that the requested variance is unlikely to substantially injure adjacent property in that the property most affected by the variance requests is owned by the applicant. Staff noted the presence of other, similarly built structures, including those with reduced setbacks, and two and a half to three story dwellings within the community. As such, the requested variances are unlikely to detract from the essential character of the district in which it is located. 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 in that the unique circumstance present on this property is that the property is subject to major topographical shifts from side to side. Another unique circumstance is that this project was started prior to annexation, when no building height or setbacks were regulated by the city. The proposed addition was located on the flattest portion of the lot, which happens to conflict with the 20 foot rear setback imposed upon the property after annexation. The annexation is not the fault of the applicant, nor is it merely financial in nature." The motion was seconded by Mr. Camargo.

AYES: Velasquez, Camargo, Quijano, Rodriguez, Garcia, Cruz, Zuniga, Kuderer, Rogers, Ozuna

NAYS: Martinez

THE VARIANCES ARE GRANTED.



Mr. Rodriguez departed at 4:38 p.m.

CASE NO. A-15-130

Applicant – Beth A Muench

Lot 5, Block 1, NCB 16725

4815 Buckwheat Street

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

The applicant is requesting 1) a five foot variance from the ten foot reverse corner lot setback, as described in Section 35-516 (i), and 2) a 15 foot variance from the 20 foot setback for garages, as described in Section 35-516(g), to allow a garage five feet from the property line.

Logan Sparrow, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 24 notices were mailed, one was returned in favor and one was returned in opposition and no response from the Windsor Square Neighborhood Association.

Beth Muench, applicant, stated she obtained a permit for the RV cover in 1999.

The following citizens appeared to speak:

Melody Ramirez, citizen, spoke in opposition.

Linda Miranda, citizen, spoke in opposition.

Jeanette Mata-Garcia, citizen, 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-15-130 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-15-130**, variance application for **1) a five foot variance from the ten foot reverse corner lot setback, as described in Section 35-516 (i), and 2) a 15 foot variance from the 20 foot setback for garages, as described in Section 35-516(g), to allow a garage five feet from the property line**, subject property description **Lot 5, Block 1, NCB 16725**, situated at **4815 Buckwheat Street**, applicant being **Beth A Muench**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-130**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **the public interest is represented by minimum setbacks to prevent non-uniform development, to ensure**

adequate fire separation distances, and to provide fair and equal access to air and light. The variance request is a structure that will subject to building code and is more in character with an addition to the existing residential structure by which following the building code the end product cannot be contrary to the public interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the applicant has stated that of most importance to her and of other testimony from supporting residence have mentioned that there is a fear of thieves being aware of when the resident is in the house or out of the house therefore the special condition is really of potential criminal activity. The spirit of the ordinance is observed and substantial justice is done in that granting the variance would enable this owner to have adequate space to store an RV that will not be visible to passer bys and potential thieves of the resident being home or not. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that the request is not asking for a use outside of the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that the structure as has been historically a carport that may have been outside of the character of the communities however this structure will have to go through building code processes in which the case would mean that this structure will mostly likely be designed intractably with the existing residences causing the structure to be more in keeping with one single structure. 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 in that the owner has had for years as a carport on this property that was permitted and does to a certain extent identify the existing accepted character in that community. What the owner proposes to do is to merely close in the carport which will almost certainly define it as an integral piece of the existing residential structure." The motion was seconded by Mr. Kuderer.

AYES: Velasquez, Kuderer, Quijano, Finlay, Garcia, Cruz, Camargo, Rogers, Ozuna

NAYS: Zuniga, Camargo

THE VARIANCE IS GRANTED.

Mr. Zuniga made a motion approve to approve the August 3, 2015 minutes with all members voting in the affirmative.

APPROVED BY: Andrew Ozuna, Chairman OR Mary Rogers, Vice-Chair

ATTESTED BY: _____ DATE: 10-5-15
Executive Secretary