

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
March 7, 2016**

Members Present:

Mary Rogers
Frank Quijano
Alan Neff
George Britton
Maria Cruz
Christopher Garcia
John Kuderer
Roger Martinez
Gene Camargo
Jeffrey Finaly

Staff:

Catherine Hernandez, Planning Manager
Logan Sparrow, Senior Planner
Margaret Pahl, Senior Planner
Kristen Flores, Planner
Paul Wendland, City Attorney

Call to Order

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

Ms. Rogers, called the meeting to order and called roll of the applicants for each case.

CASE NO. A-16-041

Applicant – Francisco Patlan
Lot 9, Block 29, NCB 9639
338 Pennystone Avenue
Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay
District

The applicant is requesting for 1) a 5 foot variance from the minimum 5 foot side setback to allow a carport to be on the side property line; & 2) a 10 foot variance from the minimum 10 foot front the front setback as described in Section 35-310.01, to allow a carport to be on the front property line.

Margaret Pahl, Senior Planner, presented the background information and staff’s recommendation of the variances. She indicated 32 notices were mailed, 0 returned in favor, 0 returned in opposition, and the Highland Hills Neighborhood Association is in opposition.

Franciso Patlan, applicant, is requesting the variance to provide parking space and safety for his family and their vehicles. The lack of information is the reason of the citation and no permit for the carport.

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

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-041 closed.

MOTION

The motion was made by **Mr. Camargo**. "I move in case No. A-16-041, applicant being Francisco Patlan, on property at 338 Pennystone Avenue, legally described as Lot 9, Block 29, NCB 9639, be granted a 2 foot variance to allow a 3 foot setback along the side property line.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the property owners mostly affected adjacent to the property did not voice any concern. One concern raised by the neighborhood association that applies to the whole neighborhood.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **as presented, the home was built in 1949, and 3 foot setbacks were required. In the Pennystone area, a 3 foot setback would be in order.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **he and a friend did the construction to look attractive, I would assume that lost for correction of the side yard variance would not be so extensive, as if he would have to hired an individual to do so.**
- 4) "Such 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"
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **there are no unique circumstances that will justify the construction of this master structure right on the property line, especially overhanging on the adjacent property, which is not heard of. If in fact the structures to**

the rear are non-conforming, then the 3 foot setback, according to staff, would not be affected and would probably be allowed to remain. The motion was seconded by Mr. Kuderer.

AYES: Camargo, Kuderer, Neff, Finlay, Garcia, Rogers

NAYS: Quijano, Britton, Cruz, Martinez

THE VARIANCE FAILED.

An Alternative motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-041, variance application for 1) a 5 foot variance from the minimum 5 foot side setback to allow a carport to be on the side property line, subject property description Lot 9, Block 29, NCB 9639, situated at 338 Pennystone Avenue, applicant being Francisco Patlan.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing adequate off-street parking for permitted uses.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant needs additional parking for the additional vehicles and maneuvering area.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **providing adequate covered parking for a residential property meets the intent of the Code and if approved the carport will require a permit for fire-rated construction.**
- 4) "Such 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" in that **the colors used match the color of the house.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the driveway was already built on the side property line.**" The motion was seconded by **Ms. Cruz.**

AYES: Martinez, Cruz, Finlay, Garcia

NAYS: Quijano, Neff, Britton, Camargo, Kuderer, Rogers

THE VARIANCE FAILED. REQUESTS ARE DENIED FOR LACK OF MOTION.

CASE NO. A-16-026

Applicant – Felipe Jamie Lopez
Lots 3 & 4, Block 22, NCB 6421
632 West Rosewood Avenue
Zoning: “R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood
Conservation Airport Hazard Overlay District

The applicant is requesting for a 4 foot variance from the minimum 5 foot side setback, as described in Section 35-310.01, to allow a new carport 1 foot from the side property line and 2) a variance from the Beacon Hill Neighborhood Conservation District design requirements that mandate that a carport addition must match the dwelling in scale, proportion, and profile and 3) a variance from the requirement that a carport addition must be recessed five feet behind the primary façade of the dwelling and 4) a variance from the requirement that a carport addition must match the dwelling’s roof line to allow a carport that is one foot from the side property line and that does not match the existing dwellings materials, scale, or roof line and that is flush with the façade of the primary dwelling.

Kristin Flores, Planner, presented the background information and staff’s recommendation of the requested variances. She indicated 33 notices were mailed, 0 returned in favor, 18 returned in opposition, and the Beacon Hill Neighborhood Association is in opposition.

Felipe Jaime, applicant, stated the carport is a family project built for his son who is disabled. Applicant presented pictures of the carport width and his son getting out of the vehicles, showing how the need for the variance will make the conditions better for his family.

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

The following citizens appeared to speak:

Madeleine Nerio, spoke in opposition with concerns for fire hazard and negative president.

Mark Spielman, Beacon Hill, spoke in opposition.

Everett Ives, Beacon Hill, spoke in opposition.

Maria Lopez, spoke in opposition with concerns for water run-off onto her property.

Jack Finger, Beacon Hill, 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-16-026 closed.

MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-16-026, variance application for a 4 foot variance from the minimum 5 foot side setback to allow a new carport 1 foot from the side property line, subject property description Lots 3 & 4, Block 22, NCB 6421, situated at 632 W. Rosewood, applicant being Felipe Lopez. This motion is regarding only the side setback variance.

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

Specifically, we find that:

- 1) “Such variance will not be contrary to the public interest” in that **the carport encroaching into the side setback to provide a reasonable accommodation for a person in a wheelchair is not contrary to the public interest. However, if approved the applicant should take measures to address water mitigation and will be required to meet fire standards.**
- 2) “Due to special conditions, in this case, **the ability to provide covered parking for a handicap resident. Strict enforcement of the code results in a hardship.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the carport will provide reasonable accommodations for the residents of the home. However, fire standards and water runoff mitigation should be addressed.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized **in the “R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill 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” in that **other carports present in the neighborhood. If approved, the carport will be required to meet fire standards and the Beacon Hill Neighborhood Conservation District.**
- 6) “The plight of the owner of the property is due to unique circumstances existing on the property **in that the variance is necessary to provide covered parking for a handicap resident.**” The motion was seconded by **Mr. Neff**.

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

NAYS: None

THE VARIANCE IS GRANTED.

3:10 p.m. Board members recessed for 10 minutes.

CASE NO. A-16-049

Applicant – Daniel Ramos
Lot 27, Block 338, NCB 9431
135 West Hutchins Place
Zoning: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay
District

The applicant is requesting for a nine foot variance from the required 20 foot rear setback, as described in Section 35-310.01, to allow a dwelling to have a eleven foot rear setback.

Kristin Flores, Planner, presented background, and staff’s recommendation of the requests. She indicated 24 notices were mailed, 2 returned in favor, and 0 returned in opposition.

Daniel Ramos, applicant, requested the variance to allow additional covered parking on the property.

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

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-049 closed.

MOTION

A motion was made by **Mr. Kuderer**. “Regarding Appeal No. A-16-049, variance application a nine foot variance from the required 20 foot rear setback to allow a dwelling to have a eleven foot rear setback, subject property description Lot 27, Block 338, NCB 9431, situated at 135 W Hutchins Place, applicant being Daniel Ramos.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing setbacks to prevent land use conflicts from arising due to proximity. Because there are no additional structures being built, that this rear setback variance is not contrary to the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the special condition present here is that the structure will remain where it has for years.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **approving this variance will permit a structure to remain in that location and that structure has been in the location since it was built.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **this structure backs up to an alley; it is unlikely that any adjacent property owner will be affected.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property; **because no new structures are being built that would further reduce the rear setback.**" The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-043

Applicant – Sergio Martinez

Lot 3, Block 18, NCB 10080

258 North Hill Drive

Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for 1) a 2 foot special exception from the maximum 6 foot rear fence height, as described in Section 35-399.04, to permit an 8 foot fence in the side and rear; & 2) a variance from the requirement that fences be constructed of wood, chain link, stone, rock, concrete block, masonry brick, decorative wrought iron, as described in 35-514.06, to allow a fence of to be constructed of chip metal.

Kristin Flores, Planner, presented background, and staff's recommendation of the requests. She indicated 25 notices were mailed, 0 returned in favor, 1 returned in opposition, and the Maverick Neighborhood Association is in opposition.

Sergio Martinez, applicant, requested an 8 foot fence made out of industrial metal. Applicant stated the heavy duty fence request is due to the safety of his family from a registered sex offender that lives on the property directly behind his house. The applicant stated he is also requesting for the 8 foot fence to extend 20 feet from the rear to the front along the sides of the property.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-043 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-043, for a 2 foot special exception from the maximum 6 foot rear fence height to permit an 8 foot fence at the sides only being 20 feet measured from the rear property line, subject property description Lot 3, Block 18, NCB 10080, situated at 258 North Hill Drive, applicant being Sergio Martinez.

"I move that the Board of Adjustment grant the applicant's request for a special exception to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the requirements for a special exception have been satisfied."

Specifically, we find that:

- 1) *"The special exception will be in harmony with the spirit and purpose of the chapter in that **an eight (8) foot fence along the rear portions of the side yard provides additional safety and privacy for owners adjacent to an alley.***
- 2) *"The public welfare and convenience will be substantially served **the property owner is concerned about the potential for an increase in crime and visibility from neighboring properties. As the property is located along an alley with public access an eight (8) foot fence in the side of the rear yard will help serve in the protection of his family from people being able to view in from the ally way.***
- 3) *"The neighboring property will not be substantially injured by such proposed use **in that the rear property fence along the ally way is already allowed to be 8 feet by right, therefore the 20 foot sections that the rear of the side fences will not be out of line with that.***
- 4) *"The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought **in that the 8 foot fence will not be very visible from the public right-of-way.***
- 5) *"The special exception will not weaken the general purpose of the district **in that the fencing will not introduce a use different from the single-family residential housing.**" The motion was seconded by **Mr. Camargo**. The motion is only for the fence not the material.*

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-043, a variance from the requirement that fences be constructed of wood, chain link, stone, rock, concrete block, masonry brick, decorative wrought iron to allow a fence of to be constructed of sheet metal, subject property description Lot 3, Block 18, NCB 10080, situated at 258 North Hill Drive, applicant being Sergio Martinez.

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

Specifically, we find that:

1. "Such variance will not be contrary to the public interest" in **that the nature of a solid fence constructed of sheet metal in a pre-finished color could be similar to that of a painted solid privacy fence constructed of wood.**
2. "Due to the special condition in this case is that the applicant is concerned about the privacy of his family, backyard, and in the house from the potential of neighbors looking into the property and potential crime. The proposed metal fence provides a benefit to the applicant as he has proposed.
3. "The spirit of the ordinance is observed and substantial justice is done" in that **the applicant has the right to construct a fence that provides privacy that being accomplished with a different material but with a similar performance accomplishment.**
4. "Such variance will not authorize the operation of a use other than those uses specifically authorized, **because this is still a Single Family Residence, just of a different fence material.**
5. "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in **that the applicant has proposed a metal fence that is comprised of a collection of materials that could be similar of that of a wood privacy fence that is solid in nature and that is constructed with posts; top rails, bottom rails, and vertical lines similar to that of wood pickets. In this case it is just a foreign metal.**" The motion was seconded by **Mr. Quijano.**

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

THE VARIANCE IS GRANTED.

CASE NO. A-16-045

Applicant – Anant Patel
Lots 70 and 71, Block 127, NCB 18300
9310 and 9322 Guilbeau Road
Zoning: “C-3” General Commercial District

The applicant is requesting for an elimination of the required Type B 15 foot bufferyard along the Guilbeau Road frontage, as described in Table 35-510-1, to allow a commercial development with no bufferyard.

Logan Sparrow, Senior Planner, presented the background and staff’s recommendation for the variance. She indicated 28 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Anant Patel, applicant, requested the variance to open his own optometry business on the property, and to maximize the parking on the property.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-045 closed.

MOTION

A motion was made by **Mr. Garcia**. “Regarding Appeal No. A-16-045, variance application for the elimination of the required Type B, 15 foot bufferyard along the Guilbeau Road frontage, subject property description Lots 70 and 71, Block 127, NCB 18300, situated at 9310 and 9322 Guilbeau Road, applicant being Anant Patel.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing the required parking, and establishing the bufferyard would place the property out of compliance with parking standards.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant needs parking and the bufferyard would interfere with that.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **providing the required bufferyard would reduce the developable area on an already small lot. The commercial property in size and geometry makes it difficult to comply with both the easement bufferyard and the parking requirements.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3" General Commercial District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **adjacent commercial properties also do not have the bufferyard.**

"The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because size of the lot makes development that meets all standards difficult.**" The motion was seconded by **Mr. Camargo.**

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-051

Applicant – 190 Bitters, LLC

Lot 45 EXC NE 3.51 FT, NCB 12059

190 W Bitters Road

Zoning: "C-3 MLOD AHOD" General Commercial Military Lighting Overlay

Airport Hazard Overlay District

The applicant is requesting for an elimination of the required Type B 15 foot bufferyard along the W Bitters Road frontage, as described in Section 35-510-1, to allow a commercial development without the required bufferyard.

Logan Sparrow, Senior Planner, presented the background and staff's recommendation for the variance. He indicated 10 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Michelle Hurst, representative, stated the company would like to re-develop the lot and the entrances on the property.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-051 closed.

MOTION

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-051, variance application for the elimination of the required Type B, 15 foot bufferyard along the Bitters Road frontage, subject property description Lot 45 ECX NE 3.51 FT, NCB 12059, situated at 190 W Bitters Road, applicant being 190 Bitters, LLC.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing bufferyard to make our urban streetscapes more visually pleasing. Because the applicant has designed a site plan that accounts to landscaping in key areas, the variance request is consistent with the public interests.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the property is designed with a circular traffic flow and the creation of the bufferyard would negatively affect that flow.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **providing the required bufferyard would negatively affect traffic flow.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"C-3 MLOD AHOD" General Commercial Military Lighting Overlay Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **adjacent commercial properties also do not have the bufferyard.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because of the way that traffic flow was designed on the property when it was initially designed.**" The motion was seconded by **Mr. Garcia.**

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

NAYS: None

THE VARIANCE IS GRANTED.

Mr. Quijano left the Board of Adjustment meeting at 4:28 p.m.

CASE NO. A-16-048

Applicant – Larry Coker

Owner: Ewing Irrigation

Lot NE IRR 179.83 FT of 24, Block 3, NCB 13765

10414 N IH-35

Zoning: “C-3 IH-1 AHOD” General Commercial Northeast Gateway Corridor
Overlay Airport Hazard Overlay District

The applicant is requesting for 1) a 30 foot variance from the minimum 60 foot front setback and 2) a 15 foot variance from the required 20 foot side setback, both as described in Section 35-339 the Northeast Gateway Corridor Overlay District, to allow a building 30 feet from the front property line and 5 feet from the side property line.

Margaret Pahl, Senior Planner, presented the background and staff’s recommendation for the variances. She indicated 16 notices were mailed, 1 returned in favor, and 1 returned in opposition.

Larry Coker, representative, stated Ewing Irrigation plans to relocate current business to a more accessible location for large trucks and trailers.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-048 closed.

A motion was made by **Mr. Neff**. “Regarding Appeal No. A-16-048, variance application 1) a 30 foot variance from the minimum 60 foot front setback to allow a building 30 feet from the front property line and 2) a 15 foot variance from the required 20 foot side setback to allow a building to be 5 feet from the side property line, subject property description Lot NE IRR 179.83 FT of 24, Block 3, NCB 13765, situated at 10414 N IH-35, applicant being Larry Coker.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing setbacks to prevent land use conflicts from arising due to proximity. The applicant is providing a 30 foot, landscaped front setback and this satisfies the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **providing the 60 foot setback would push the building back much further from adjacent properties, resulting in an unnecessary hardship.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **providing the required setback and buffering are meant to beautify the streetscape – the fenestration and provided designs satisfy this goal.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 IH-1 AHOD" General Commercial Northeast Gateway Corridor Overlay Airport Hazard Overlay District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **this new project will enhance the corridor.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because of heavily trafficked nature of the business – additional maneuvering space is needed.**" The motion was seconded by **Mr. Garcia.**

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

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-16-047

Applicant – LaFayette Place HOA

Lot 5, Block 5, NCB 14191

7500 Callaghan Road #113

Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District

The applicant is requesting for a request for a special exception to allow an eight foot tall cedar wood fence along the sides of a condominium development as described in Section 35-514.

Kristin Flores, Planner, presented the background and staff's recommendation for the special exception. She indicated 221 notices were mailed, 15 returned in favor, and 4 returned in opposition.

Laura Lozano, representative, requested the 8 foot fence due to the high criminal activity on the property.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-047 closed.

MOTION

A motion was made by **Mr. Camargo**. "I move in case A-16-047, applicant being LaFayette Place HOA, on property at 7500 Callaghan Road #11, legally described as Lot 5, Block 5, NCB 14191, for a special exception to allow an eight foot tall cedar wood fence along the sides of a condominium development as the site plan submitted.

Specifically, we find that the following conditions have been satisfied:

1. "The special exception will be in harmony with the spirit and purpose of the chapter" in that **permitting an 8 foot fence along the sides, is a reasonable property request.**
2. "The public welfare and convenience will be substantially served" in that **the added protection of side yard fencing allowing the owner to protect the property from future invasions.**
3. "The neighboring property will not be substantially injured by such proposed use" in that **the fence can improve the appearance of the neighborhood in general.**
4. "The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought" in that: **Side and rear year fencing is common in this community.**
5. "The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district" in that: **The purpose of the additional height is to provide security ordinarily enjoyed by a six foot tall fence and granting the exception will not be detrimental to the character of the district.**" The motion was seconded by Ms. Cruz

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED

CASE NO. A-16-021

Applicant: Urban Surveying, Inc.

Owner: Elisabeth Munoz

Lot 141, Block 39, NCB 19215

7406 Stonefruit

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

The applicant is requesting for 1) a 8.9 foot variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport 1.1 feet from the front property line; and 2) a 3.9 foot variance from the minimum 5 foot side setback, as described in Section 35-310.01, to allow a carport 1.1 feet from the side property line

Kristin Flores, Planner, presented the background and staff's recommendation for the variances. She indicated 27 notices were mailed, 4 returned in favor, and 1 returned in opposition, and no contact information for the Wildwood Neighborhood Association.

Michael Williams, representative, stated the carport was built to resemble the home. The representative also stated the contractor told the owner she did not need permits to build her carport.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-021 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-021, variance application for 1) a 16.2 foot variance from the 20 foot official front setback to allow a carport 3.8 feet from the front property line; and 2) a 2.6 foot variance from the minimum 5 foot side setback to allow a carport 2.4 feet from the side property line, subject property description Lot 113, Block 2, NCB 17948, situated at 7406 Stonefruit, applicant being Elisabeth Munoz.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **to allow the structure to remain as constructed improves property values and, if the variance is approved the structure will have to meet fire standards.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in required demolition of the carport, an unnecessary hardship" in that **the lot is on a cul-de-sac and the front property line is irregular.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **permits and inspections will verify the carport is structurally sound and fire separations standards are satisfied.**

- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized **in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the carport is attractive and adds value to the surrounding area.**
- 6) "The plight of the owner of the property is due to unique circumstances existing on the property **in that the frontage on a cul-de-sac makes the front property line irregular and the variance more severe on one side of the driveway.**" The motion was seconded by Mr. Neff.

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

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-16-044

Applicant – Daniel Valadez
Lot 17, Block 1, NCB 14901
9522 Veronica Street
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

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

Kristin Flores, Planner, presented the background and staff's recommendation for the variances. She indicated 19 notices were mailed, 3 returned in favor, and 0 returned in opposition, and no response from the Pecan Valley Neighborhood Association.

Daniel Valdez, applicant, stated he built the carport for vehicle protection. He also stated the carport was built large because of the odd shape of the property's lot, and for it to appear as it is attached to the home.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-044 closed.

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-044, variance application a four foot and six inch variance from the required five foot side setback to allow a carport to be as near as six inches from the side property line, subject property description Lot 17, Block 1, NCB 14901, situated at 9522 Veronica Street, applicant being Daniel Valadez.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by providing setbacks to prevent land use conflicts from arising due to proximity. Because the structure encroaches minimally into this setback, it is not contrary to the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the special condition present here is the shape and size of the property.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **encroaching, minimally, into this setback will result in substantial justice.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **this carport is located behind the façade of the home, which is consistent with the character of the community.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the shape of the lot should permit some encroachment into the setback.**" The motion was seconded by Mr. Neff.

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

NAYS: None

THE VARIANCE IS GRANTED.

Ms. Rogers made a motion to approve the February 8, 2016 minutes with all members voting in the affirmative.

Directors Report:

- Presentation of the 2015 Board of Adjustment Year in Review will be scheduled at the next meeting, March 21, 2016.

There being no further discussion, meeting adjourned at 5:20 pm.

APPROVED BY: Mary E. Rozen OR B
Chairman Vice-Chair

DATE: 3-21-16

ATTESTED BY: Memo Png DATE: March 23, 16
Executive Secretary