

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
May 23, 2016**

Members Present:

Mary Rogers
Frank Quijano
Jeffrey Finlay
Maria Cruz
George Britton
Christopher Garcia
John Kuderer
Roger Martinez
Jesse Zuniga

Staff:

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

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.

Gabriela Tolantino, World Wide Translators, was present.

Case Number: A-16-079

Mr. Kuderer motioned for a continuance to June 6, 2016 and was seconded by **Mr. Garcia**

AYES: Kuderer, Garcia, Rodriguez, Cruz, Quijano, Martinez, Finlay, Britton, Rogers

NAYS: None

THE CONTINUANCE IS GRANTED.

Case Number: A-16-064

Applicant: Ilder Javier Vasquez

Owner: Ilder Javier Vasquez

Council District: 2

Location: 422 Dreiss Street

Legal Description: Lot S 39 FT of W 25.7 FT of 14 & S 39 FT of 15, NCB 1406

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

Request

A request for the elimination of the five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to remain on the side property line.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 24 notices were mailed, 0 returned in favor, 2 returned in opposition, and no response from the Denver Heights Neighborhood Association.

Ilder Javier Vasquez, applicant, spoke of his neighbor's camera invading his privacy and also needs protection from sun and hail as reasons for the carport.

Gabriela Tolantino, World Wide Translators, translated for the applicant.

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-16-064 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-064, variance application for the elimination of the required five foot side yard setback to allow a carport to remain on the side property line, subject property description Lot S 39 FT of W 25.7 FT of 14 & S 39 FT of 15, NCB 1406, situated at 422 Dreiss Street, applicant being Ilder Javier Vasquez.

"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 small lot does not allow for the construction of a carport that meets the required five foot side yard setback.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **meeting the side setback would create a carport that is too small to use.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the water runoff has been mitigated by the addition of a gutter.**

- 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 **the applicant has added gutters to the carport to address water runoff.**
- 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 lot is too narrow to design a carport that meets the side setback and the elimination of the setback is warranted.**" The motion was seconded by **Zuniga.**

An amendment was made by **Chairman Rogers** for a 3 foot variance to allow 2 feet from the property line.

AYES: Martinez, Garcia, Cruz, Finlay, Kuderer
Nays: Zuniga, Britton, Quijano, Rogers

THE VARIANCE FAILED



Case Number: A-16-087

Applicant: Marek Sieczynski

Owner: Marek Sieczynski

Council District: 5

Location: 2015 Guadalupe Street

Legal Description: Lot 9C, Block 5, NCB 2432

Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District Case Manager: Margaret Pahl, Planner

Request

A request for a five foot variance from the ten foot side yard setback to allow for a commercial development with a five foot side yard setback.

Maragaret Pahl, Senior Planner, presented the background information and staff's recommendation of Approval. 52 Notices were mailed out, 0 in favor 0 in opposition, and no response from the Avenida Guadalupe Neighborhood Association.

Mark Sienczynski, applicant, spoke about the need for development in the area.

No citizens signed up 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-16-087 closed.

MOTION

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-087, variance application for a five foot variance from the ten foot side yard setback to allow for a commercial development with a five foot side yard setback, subject property description Lot 9C, Block 5, NCB 2432, situated at 2015 Guadalupe Street, applicant being Marek Sieczynski.

"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 owner has designed a site plan with some buffering and because they have placed the structure as far from the side property line as possible.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the abutting properties nonconforming status as a residential use in a commercial zone is the trigger for the setback. If the abutting property had a conforming commercial use there would be no setback required.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the property owner will be able to establish a use the property. There are 15 vacant properties within 200 feet of this parcel. A reduction in the side setback will help to bring some investment into this neighborhood.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"C-2 AHOD" Commercial Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **this portion of Guadalupe Street is heavily commercial in nature. Reducing a side setback to allow for a commercial development is unlikely to alter the essential 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, **because the property next door has a nonconforming use.**" The motion was seconded by **Mr. Garcia.**

AYES: Kuderer, Garcia, Zuniga Cruz, Quijano, Martinez, Finlay, Britton, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-085

Applicant: Florencia Torres

Owner: Florencia Torres

Council District: 5

Location: 239 Ray Street

Legal Description: Lots 120 and 121, NCB 6182

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

Case Manager: Kristin Flores, Planner

Request

A request for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow a carport to remain on the side property line.

Kristin Flores, Planner, presented the site plan with updated information for the case, and staff's recommendation of Denial. She indicated 45 notices were mailed, 3 returned in favor, 0 returned in opposition and no response from the Collins Garden Neighborhood Association.

Florencia Torres, applicant, spoke to her need for the carport to protect from hail and sun.

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-16-085 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-085, for the elimination of the required five foot side yard setback to allow a carport to remain on the side property line, subject property description Lots 120 and 121, NCB 6182, situated at 239 Ray Street, applicant being Florencia Torres.

"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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The requested variance will not be contrary to the public interest.**

- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that a **literal enforcement for this owner would result in an unnecessary hardship.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the ordinance represents the intent of the requirement. The carport will respect the spirit of code.**
- 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 development standards will ensure safe and appropriate construction for the proposed carport.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property **the carport, as built, meets the spirit of the code and will be a valuable asset to the subject property and neighborhood.**” The motion was seconded by Mr. Kuderer.

An amendment was made by Mr. Quijano for a three (3) foot variance to allow two (2) feet from the property line.

AYES: Martinez, Kuderer, Quijano, Zuniga, Cruz, Garcia, Finlay, Britton, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-077

Applicant: Chris and Judy Griesenbeck

Owner: Chris and Judy Griesenbeck

Council District: 1

Location: 447 Pinewood Lane

Legal Description: Lot 12, Block 20, NCB 12069

Zoning: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for the elimination of the five foot side yard setback, as described in Section 35310.01, to allow a carport and an eave overhang on the side property line.

Margaret Pahl, Senior Planner, Staff recommends Denial. She indicated 30 notices were mailed, 1 returned in 1 favor, 2 returned in opposition, and no response from the Shearer Hills Neighborhood Association.

Chris and Judy Griesenbeck, applicants, stated the neighbor agreed to a 5 ft easement to be recorded with the Bexar County if need be to satisfy the Board.

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-16-077 closed.

A motion was made by **Mr. Kuderer** for a continuance to June 6, 2016. The motion was seconded by **Ms. Cruz**.

AYES: Kuderer, Cruz, Martinez, Zuniga, Garcia, Quijano, Finlay, Rogers, Britton

NAYS: None

THE CONTINUANCE IS GRANTED

The Board of Adjustment recessed for a 10 minute break at 2:36pm.

Case Number: A-16-080

Applicant: Pedro Tapia

Owner: Pedro Tapia

Council District: 5

Location: 3923 W Salinas

Legal Description: Lot West 15 FT of 12, the East 18 FT of 13, and the South 80 FT of the West 32 FT of 13, Block 60, NCB 3658

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

Case Manager: Kristin Flores, Planner

Request

A request for 1) a three and a half foot variance from the required five foot side yard setback, as described in Section 35-310.01, to allow an existing carport to remain one and a half feet from the side property line and 2) a five foot variance from the required ten foot front setback, as described in Section 35-310.01, to allow an attached carport to remain five feet from the front property line.

Kristin Flores, Planner, presented background information, and staff's recommendation of Denial. She indicated 29 notices were mailed, 2 returned in favor, 2 returned in opposition, and no response from the Prospect Hill 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-16-080 closed.

A motion was made by **Mr. Martinez** for a continuance to June 6, 2016. The motion was seconded by **Mr. Garcia**.

AYES: Martinez, Garcia, Kuderer, Zuniga, Cruz, Quijano, Britton, Finlay, Rogers

NAYS: None

THE CONTINUANCE IS GRANTED.



Case Number: A-16-084

Applicant: Chris Conger

Owner: Roy Leslie

Council District: 2

Location: 106 Pershing Avenue

Legal Description: Lots 17, 18, & 19, Block 1, NCB 6089

Zoning: "C-3 RIO-1 AHOD" General Commercial River Improvement Overlay

Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a four foot variance from the six foot maximum rear yard fence height, as described in Section 35 -514, to allow a ten foot tall privacy fence on a portion of the side and rear yard of the property.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of Approval for the variance request. She indicated 27 notices were mailed, 4 returned in favor and 1 returned in opposition, and Mahnke Park Neighborhood Association is in favor.

Chris Conger, applicant, said he will work with his neighbors to improve the establishment.

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-16-084 closed.

MOTION

A motion was made by Mr. Kuderer. "Regarding Appeal No. A-16-084, variance application for a four foot variance from the eight foot maximum rear yard fence height to allow a fence as tall as ten feet in the rear yard of the property, subject property description Lots 17, 18, and 19, Block 1, NCB 6089, situated at 106 Pershing Avenue, applicant being Chris Conger.

"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 proposed fence is a response to adjacent residents that wanted to mitigate noise from the bar - the purpose of the fence is to serve the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the bar was development abutting residential property. The proposed fence is a solution to help mitigate the impacts of having such uses in close proximity to one another.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the variance seeks to provide adjacent residents an additional noise barrier for the quiet enjoyment of their property.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 RIO-1 AHOD" General Commercial River Improvement 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 **the request seeks to provide those adjacent properties with additional protections.**
- 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 bar is located very near several residential uses. This unique circumstance merits a taller fence for the benefit of the community.**" The motion was seconded by Mr. Martinez.

AYES: Kuderer, Martinez, Finlay, Garcia, Quijano, Cruz, Rogers, Britton, Zuniga

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-088

Applicant: Jerry D Holley

Owner: Jerry D Holley

Council District: 7

Location: 5322 Medical Drive

Legal Description: Lots 32 and 33, Block A, NCB 11609

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

Case Manager: Kristin Flores, Planner

Request

A request for a variance to allow parking within the 20 foot front setback, as described in Section 35-310.01 Note (6).

Kristin Flores, Planner, presented background, and staff's recommendation of the variance request. She indicated 11 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Travis Louey, representative, stated this was a parking and wants to keep it a parking lot and sees no reason to reinvent the wheel when it comes to this case.

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-16-088 closed.

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-088, for a variance to allow parking within the 20 foot front setback, subject property description Lots 32 and 33, Block A, NCB 11609, situated at 5322 Medical Drive, applicant being Jerry D Holley.

"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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The parking lots, in the current location, are shielded from the view of right of way and will not increase impervious cover on the property. Staff finds the requested variance is not contrary to the public interest.**

- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the parking lots have been in the current location for many years. The owner wishes to utilize the parking lots in the current location, but due to the 2001 code amendment the parking lots do not meet current development standards**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **granting the requested variance will result in substantial justice as the parking lots will not be visible from the right-of-way and will not increase impervious cover.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the “MF-33 AHOD” 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” in that **the parking lots have been in the present location for many years it is unlikely the continued use will cause harm to adjacent properties.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. **In this case, the parking lots have been in the present location for many years and the owner wishes to utilize them in the current location. This is a situation the owner inherited and is working to ensure compliance before beginning construction.**” The motion was seconded by Mr. Garcia.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-081

Applicant: Refugio E. Lopez

Owner: Refugio E. Lopez

Council District: 5

Location: 35 Linden Avenue

Legal Description: Lot 20, Block 1, NCB 10601

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

Case Manager: Kristin Flores, Planner

Request

A request for a variance for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to be constructed along the side property line.

Kristin Flores, Planner, presented background information and staff’s recommendation for the requested variances. She indicated 33 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Tierra Linda Neighborhood Association.

Refugio E. Lopez, applicant, stated son will build the carport according to all specifications if approved.

Eva Lopez, applicant, stated she wanted the carport for protection from the weather and so her grandkids can play.

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-16-081 closed.

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-081, variance application for a three (3) foot variance of the required five foot side yard setback to allow an attached carport to be constructed along the side property line, subject property description Lot 20, Block 1, NCB 10601, situated at 35 Linden Avenue, applicant being Refugio E. Lopez.

"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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The requested variance will not be contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement for this owner would result in an unnecessary hardship.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance represents the intent of the requirement. The proposed carport will respect the spirit of code.**
- 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 development standards will ensure safe and appropriate construction for the proposed carport.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property **the carport, as proposed, meets the spirit of the code and will be a valuable asset to the subject property and neighborhood.**" The motion was seconded by **Ms. Cruz.**

AYES: Quijano, Cruz, Garcia, Finlay, Britton, Martinez, Kuderer, Rogers, Zuniga
NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-086

Applicant: Oscar and Julia Huizar
Owner: Oscar and Julia Huizar
Council District: 7
Location: 402 Bradford
Legal Description: Lot 6, Block 29, NCB 9249
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay
District Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) the elimination of the ten foot front setback, as described in Section 35-310.01, to allow a carport to be as near as on the front property line and 2) a three and a half foot variance from the required five foot side setback, also described in Section 35-310.01, to allow a carport to be as near as one and a half feet from the side property line.

Maragaret Pahl, Senior Planner, presented background information for the requested variances. She indicated 23 notices were mailed, 1 returned in favor, 0 returned in opposition, and no response from the University Park Neighborhood Association.

Oscar Huizar, Applicant, contractor spoke for applicant.

Arturo Lopez, Contractor, Maverick Contracting, stated the City of San Antonio inspectors informed him he would need to go before the Board of Adjustment to build the carport they wanted.

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-16-086 closed.

A motion was made by **Mr. Garcia**, "Regarding Appeal No. A-16-086, variance application for 1) the elimination of the ten foot front setback to allow a carport to be as near as on the front property line and 2) a three and a half foot variance from the required five foot side yard setback to allow a carport to be as near as one and a half feet from the side property line, subject property description Lot 6, Block 29, NCB 9249, situated at 402 Bradford, applicant being Oscar and Julia Huizar.

"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 owner will be able to enjoy a carport like other property owners in the community do.**
- 2) “Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship” in that **the property is located along a bend in the street. The lot is narrow at the rear, fanning out to a more wide street frontage. The house on the property had to be built ten feet closer to the street than those properties to the sides, leaving ten fewer feet for a carport that meets the front setback.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the property owner will be able to benefit from a carport like other in the neighborhood.**
- 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 request will allow the property owner to have a carport like others in 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 property is oddly shaped, leaving less developable space than most lots. This is a property-related hardship.**” The motion was seconded by Ms. Cruz.

AYES: Garcia, Cruz, Quijano, Martinez, Zuniga, Finlay, Britton, Kuderer, Rogers

NAYS: None

THE VARIANCES ARE GRANTED.



Case Number: A-16-082

Applicant: Cheryl R. Mijangos

Owner: Alberto and Cheryl Mijangos

Council District: 1

Location: 138 W. Mariposa Drive

Legal Description: Lots 15 & 16, Block 10, NCB 9014

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

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a two foot variance from the required five foot rear setback, as described in Section 35-371(b) (7), to allow an accessory dwelling unit to be built three feet from the rear property line and 2) a two foot variance from the required five foot side setback, also described in Section 35-371(b)(7), to allow an accessory dwelling unit to be built three feet from the side property line.

Maragaret Pahl, Senior Planner, presented background information for the requested variances. She indicated 33 notices were mailed, 2 returned in favor, and 0 returned in opposition with no response from the Olmos Park Neighborhood Association.

Cheryl R. Mijangos, applicant, stated that she wanted the dwelling so her disabled brother could live on the property with her.

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-16-082 closed.

A motion was made by **Mr. Quijano**, "Regarding Appeal No. A-16-082, variance application for 1) a two foot variance from the required five foot rear setback to allow an accessory dwelling unit to be built three feet from the rear property line and 2) a two foot variance from the required five foot side setback to allow an accessory dwelling unit to be built three feet from the side property line, subject property description Lots 15 & 16, Block 10, NCB 9014, situated at 138 W. Mariposa Street, applicant being Cheryl R. Mijangos.

"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 accessory dwelling unit is being built in the location of a former garage, which was not contrary to the public interest as it stood since 1941.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **many homes in this older community have accessory structures with three foot setbacks.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the variance will not authorize a privilege not enjoyed by other similarly situated property owners.**
- 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 **many homes in this community have the same design – the essential character of the district is unlikely to be negatively 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 most accessory structures in this neighborhood are built three feet from the side or rear property lines.**" The Motion was seconded by Ms. Cruz.

AYES: Quijano, Cruz, Garcia, Martinez, Zuniga, Finlay, Britton, Kuderer, Rogers

NAYS: None

THE VARIANCES ARE GRANTED.

The Board of Adjustment recessed for a 5 minute break at 4:05 pm

Case Number: A-16-083

Applicant: Sergio Medina Mojica

Owner: Sergio Medina Mojica

Council District: 1

Location: 1114 W Lynwood Avenue

Legal Description: Lots 30 and 31, Block 3, NCB 3104

Zoning: "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood

Conservation Airport Hazard Overlay District

Case Manager: Kristin Flores, Planner

Request

A request for 1) a three and a half foot variance from the required five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to remain one and a half feet from the side property line and variances from the Beacon Hill Neighborhood Conservation District design requirements for the following: 1) a carport must match the dwelling in scale, proportion, and profile, 2) a carport addition must be recessed five feet behind the primary façade of the dwelling and 3) a carport must match the dwelling's roof line to allow a carport that is one foot six inches from the side property line for a carport 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 background information for the requested variances. She indicated 29 notices were mailed, 0 returned in favor, 0 returned in opposition, and the Beacon Hill Neighborhood Association is in opposed.

Sergio Medina, applicant present.

Jorge Gonzalez, representative and translator for the applicant. He stated the need for the carport is to protect their family and vehicles from sun and hail.

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-16-083 closed.

A motion was made by **Mr. Martinez** to continue to the next meeting on July 11, 2016. The motion was seconded by **Ms. Cruz**.

AYES: Quijano, Cruz, Garcia, Martinez, Zuniga, Finlay, Britton, Kuderer, Rogers
NAYS: None

THE CONTINUANCE IS GRANTED.

Ms. Rogers made a motion to approve the May 9, 2016 minutes with all members voting in the affirmative.

Directors Report: None

There being no further discussion, meeting adjourned at 4.35 pm.

APPROVED BY: *My E Rogers* OR _____
Chairman Vice-Chair

DATE: 6-6-16

ATTESTED BY: *W. L. S. King* DATE: June 8, 16
Executive Secretary