

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 6, 2016**

DRAFT

Members Present: Mary Rogers
John Kuderer
Frank Quijano
Henry Rodriguez
Maria Cruz
George Britton
Christopher Garcia
Gene Camargo
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.

Arianne Villanueva, World Wide Translators, was present.

Case Number: A-16-075

Applicant: Darling G. Lopez

Owner: Darling G. Lopez

Council District: 7

Location: 2534 W. Mulberry Avenue

Legal Description: Lot 2, Block 14, NCB 9113

Zoning: "R-6 NCD-7 AHOD" Residential Single-Family Jefferson

Neighborhood Conservation Overlay Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) the elimination of the required 30 foot platted front setback, as described in Section 35-516(O), to allow a carport to remain on the front property line and 2) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a property may have one curb cut per 75 square feet of

frontage to allow a lot with two curbs cuts and 3) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a driveway shall not be more wide than twelve feet wide.

Logan Sparrow, Senior Planner, presented the background staff's recommendation for denial. He indicated 21 notices were mailed, 8 returned in favor, 0 returned in opposition, and the Woodlawn Lake and Jefferson Neighborhood Associations are opposed.

Darling G. Lopez, Applicant, requested that the Board grant her request for the carport.

Alejandro Soto, President of the Woodlawn Lake Association spoke in Opposition.

Henrietta LaGrange, spoke in favor of the request.

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-16-075 closed.

A motion was made by Mr. Camargo, "Regarding Appeal No. A-16-075, variance application 1) the elimination of the required 30 foot platted front setback, as described in Section 35-516(O), to allow a carport to remain on the front property line and 2) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a property may have one curb cut per 75 square feet of frontage to allow a lot with two curbs cuts. 4) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a driveway shall not be more wide than twelve feet wide on subject property description Lot 2, Block 14, NCB 9113, situated at 2534 W. Mulberry, applicant being Darling G. 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 property is shaped such that the construction of any carport will not meet the front setback and, therefore, a reduction is reasonable. The NCD standards should not be applied in all cases, considering individual hardships.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **the size of the front yard would not permit any front carport. A reduction of the setback is warranted and the design provisions may not be necessary in this case.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the property owner will benefit from a carport, a privilege enjoyed by many others in the neighborhood.**

- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized **in the “R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation 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 carport meets the side setback and is unlikely to cause harm to adjacent property owners.**
- 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 uniquely shaped and construction of a carport meeting setbacks is impossible**” the motion was seconded by **Mr. Garcia.**

AYES: Camargo, Garcia, Rodriguez, Zuniga, Cruz, Britton, Martinez, Rogers

Nays: Quijano, Kuderer

THE VARIANCE FAILED

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 35-310.01, to allow a carport and an eave overhang on the side property line.

Logan Sparrow, Senior Planner, presented the background information and staff’s recommendation of the variance. He indicated 30 notices were mailed, 1 returned in favor, 2 returned in opposition, and no response Shearer Hills and Ridgeview Neighborhood Associations.

Chris Griesenbeck, Applicant, provided the board with a notarized agreement between Mr. Geisenbeck and his neighbor.

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.

MOTION

A **motion** was made by **Mr. Kuderer**. “Regarding Appeal No. A-16-077, variance application for elimination of the five foot side yard setback, as described in Section 35-310.01, to allow a carport and an eave overhang on the side property line, subject property description Lot 12, Block 20, NCB 12069, situated at 447 Pinewood Lane, applicant being Chris and Judy Griesenbeck.

“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 meets the front setback and is unlikely to harm adjacent property. Also, the eave extension is intended to aid water drainage.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the carport would have to be removed and rebuilt to be three feet from the side property line.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the property owner will benefit from a carport, a privilege enjoyed by others in the neighborhood.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the “**R-5 AHOD**” **Residential Single-Family Airport Hazard Overlay District.**
- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **the carport adds to the character of the community and is unlikely to harm the neighbor.**
- 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 there is not enough space for a two car carport to meet the side setback requirement without a reduction.**” The motion was seconded by **Mr. Rodriguez.**

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

Nays: None

THE VARIANCE PASSES

The Board of Adjustment recessed for a 10 minute break at 2:50pm.

Board of Adjustment reconvened and Mr. Martinez recused himself from Case# A-16-079 at 2:58pm

Case Number: A-16-079

Applicant: Robie Slagh

Owner: Robie Slagh

Council District: 10

Location: 13415 Pebble Hollow

Legal Description: Lot 12, Block 46, NCB 17058

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

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow for a fence that is eight feet tall in the front yard of the property and 2) a variance to allow for a two-foot wide section of that fence to be ten feet tall, also described in Section 35-514.

Logan Sparrow, Senior Planner, presented the background information and staff's recommendation of Approval. 24 Notices were mailed out, 1 in favor 2 in opposition, and 24 outside the 200 ft notification area. Northern Hills Neighborhood Association is opposed. Mr. Sparrow also read a letter from Mr. Martinez, President of the Northern Hills Neighborhood Association who was in opposition.

Robie Slagh, applicant, not present.

Kermit Lamberth, Representative showed a video and 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-16-079 closed.

No Motion was made, no action taken

AYES: None

NAYS: None

THE VARIANCE FAILED DUE TO A LACK OF A MOTION.

Mr. Martinez re-entered the meeting at 3:38pm.

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 the site plan with updated information for the case, 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 Hills Neighborhood Association.

Monica Tapia, spoke for the applicant, stated that the water falls on their property and made some modifications and will do what it takes to keep the carport.

Joseph Torres, spoke in opposition.

Orlando Torres, 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-16-080 closed.

A motion was made by **Mr. Martinez**. Regarding Appeal No. A-16-080, variance application for 1) a three and a half foot variance from the required five foot side yard setback to allow an existing carport to remain one and a half feet from the side property line **with addition of gutters**.

“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, as currently constructed, 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 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. Camargo.

AYES: Camargo, Rodriguez, Cruz, Garcia, Britton, Kuderer,

NAYS: Martinez, Quijano, Rogers, Zuniga

THE VARIANCE FAILED.

Case Number: A-16-091

Applicant: Carl Stewart

Owner: Carl Stewart

Council District: 2

Location: 527 Eleanor Avenue

Legal Description: Lot E 62.5FT of W 125FT of 2, Block 5, NCB 6212

Zoning: "MF-33 NCD-6 AHOD" Multi-Family Mahncke Park Neighborhood

Conservation Overlay Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a special exception from the Mahncke Park Neighborhood Conservation District fencing design regulations and Section 35-514 to allow a solid screen fence as tall as 8 feet in a portion of the front yard of the property.

Logan Sparrow, Senior Planner, Staff recommends Approval. She indicated 18 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Neighborhood Association.

Carl Stewart, applicant, requested approval.

Michael Lakeridge, Representative, spoke in favor.

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-16-091 closed.

A motion was made by **Mr. Martinez**, "Regarding Appeal No. A-16-091, variance application for a special exception to allow a solid screen fence as tall as 8 feet in a portion of the front yard of the property, subject property description Lot E 62.5FT of W 125FT of 2, Block 5, NCB 6212, situated at 527 Eleanor Avenue, applicant being Carl Stewart.

"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. “The special exception will be in harmony with the spirit and purpose of the chapter” in that **UDC allows fences as tall as eight feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report.**
2. “The public welfare and convenience will be substantially served” in that **the public welfare and convenience can be served through the added protection of a fence, allowing the owner to protect their home and enjoy more privacy.**
3. “The neighboring property will not be substantially injured by such proposed use” in that **the fence seeks to provide additional separation for increased privacy.**
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: **fencing is not out of character in this neighborhood and the eight foot height is limited to the side yard, with only a small section extending into the front. Thus, granting the exception will not alter the character of the district.**
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 single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.”** The motion was seconded by **Mr. Garcia.**

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

NAYS: None

Abstain: Zuniga

THE SPECIAL EXEMPTION PASSED

Case Number: A-16-095

Applicant: John Adam McDowell

Owner: J Adams Properties LLC

Council District: 1

Location: 925 West Magnolia

Legal Description: Lots 34 & 35, Block 32, NCB 1821

Zoning: “R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill

Neighborhood Conservation Overlay Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a special exception, as described in Section 35-514, to allow a fence as tall as six feet in the front yard of the property.

Logan Sparrow, Senior Planner, presented background information, and staff's recommendation for approval. He indicated 14 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

John Adams McDowell, Applicant, stated he would follow all recommendations to get the variance approved.

Phillip Rodriguez, Representative, stated the applicant was committed to the neighborhood and spoke in favor.

Rose Cowen Brown, Representative of the Neighborhood Urban Design committee 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-16-095 closed.

A motion was made by **Mr. Kuderer**, "Regarding Appeal No. A-16-095, variance application for a special exception to allow a fence as tall as 6 feet in the front yard of the property, subject property description Lots 34 and 35, Block 32, NCB 1821, situated at 925 W Magnolia, applicant being John Adam McDowell.

"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. "The special exception will be in harmony with the spirit and purpose of the chapter" in that **UDC allows fences as tall as eight feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report.**
2. "The public welfare and convenience will be substantially served" in that **the public welfare and convenience can be served through the added protection of a fence, allowing the owner to protect their home and enjoy more privacy.**
3. "The neighboring property will not be substantially injured by such proposed use" in that **the fence seeks to provide additional separation for increased privacy.**

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: **fencing is not out of character in this neighborhood and the six foot height intended to provide for additional privacy.**

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 single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.”** The motion was seconded by Ms. Cruz

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Case Number: A-16-096

Applicant: Andres Barbosa

Owner: Andres & Sandra Barbosa

Council District: 10

Location: 15230 Spring Corner

Legal Description: Lot 23, Block 14, NCB 17236

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

Case Manager: Shepard Beamon, Planner

Request

A request for a special exception, as described in Section 35-514, to allow a 6 foot tall wood privacy fence in a portion of the front yard of a reverse corner lot.

Shepard Beamon, Planner, presented background information, and staff’s recommendation for approval. He indicated 30 notices were mailed, 5 returned in favor, 1 returned in opposition, and no neighborhood association.

Andres Barbosa, Applicant, stated his wife is mentally disabled and needs to be outside more with gardening and other outdoor activities. Mr. Barbosa hired B&B Fencing to build the fence.

Richard Brown, Spoke in opposition

Barbara Brown, 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-16-096 closed.

A motion was made by **Mr. Kuderer**, “Regarding Appeal No. A-16-096, variance application for a special exception to allow a 6 foot tall wood privacy fence in a portion of the front yard of a reverse corner lot, subject property description Lots 23, Block 14, NCB 17236, situated at 15230 Spring Corner, applicant being Andres Barbosa.

“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. “The special exception will be in harmony with the spirit and purpose of the chapter” in that **the UDC allows fences as tall as eight feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report.**
2. “The public welfare and convenience will be substantially served” in that **the public welfare and convenience can be served through the added protection of a fence, allowing the owner to protect their home and enjoy more privacy.**
3. “The neighboring property will not be substantially injured by such proposed use” in that **is of permitted height, does not block clear vision, and a special exception is required only because it is a reverse-corner lot.**
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: **fencing is not out of character in this neighborhood and thus granting the exception will not alter the character of the district.**
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 single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.”** The motion was seconded by **Mr. Rodriguez**

AYES: Kuderer, Kuderer, Camargo, Rodriguez, Zuniga, Cruz, Garcia, Britton, Quijano, Rogers

NAYS: Martinez

THE SPECIAL EXCEPTION IS GRANTED.

Case Number: A-16-092

Applicant: Robert Jarmon

Owner: Robert Jarmon

Council District: 2

Location: 5518 Castle Way Drive

Legal Description: Lot 5, Block 14, NCB 15783

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

Case Manager: Kristin Flores, Planner

Request

A request for a 20 foot variance from the 30 foot platted front setback, as described in Section 35-516 (O), to allow a carport to be 10 feet from the front property line.

Kristin Flores, Planner, presented background, and staff's recommendation of the variance request. She indicated 24 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the Camelot 1 Neighborhood Association.

Robert Jarmon, Applicant, stated four of his vehicles were damaged from recent hail and needs the carport to protect his vehicles.

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-16-092 closed.

A motion was made by **Mr. Camargo**. "Regarding Appeal No. A-16-092, variance application for a 20 foot variance from the 30 foot platted front setback to allow a carport to be 10 feet from the front property line, subject property description Lot 5, Block 14, NCB 15783, situated at 5518 Castle Way Drive, applicant being Robert Jarmon.

"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:

- 7) "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 setback limitations to protect property owners and create a**

cohesive streetscape. The City's zoning setback of 10 feet provides this streetscape protection in other areas. Since the carport meets the side setback a modified 20 foot variance would not be contrary to the public interest.

- 8) A literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the platted setback would not allow any carport. Providing equal treatment of enforcing the 10 foot zoning setback is not a hardship.**
- 9) "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 City zoning setback is 10 feet and represents the ordinance and the proposed carport meets this spirit.**
- 10) "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.**
- 11) "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 will be an attractive addition to the home when it is completed. A 20 foot variance from the 30 foot platted setback will be equivalent to the City's established standard for front setback.**
- 12) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. **The applicant has not yet begun construction of the carport as he has done the property research and will be meet the requirements before beginning construction. The City of San Antonio has an established 10 foot front setback, applied in all residential districts, and the proposed carport meets this established setback.**" The motion was seconded by Mr. Martinez

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

NAYS: None

THE VARIANCE IS GRANTED.

A Motion was made Mr. Rodriguez to Continue Items A-16-093, A-16-097, A-16-090 to July 11, 2016 and Items A-16-089 and Item A-16-094 to July 25, 2016 and was seconded by Ms. Cruz.

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

NAYS: None

MOTION FOR CONTINUANCE PASSES

Ms. Rogers made a Motion to approve the May 23, 2016 minutes with all members voting in the affirmative.

Directors Report: Staff gave an update on application process for the alternates for the Board of Adjustment

There being no further discussion, meeting adjourned at 5:45 pm.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary