

DRAFT

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 20, 2016**

Members Present:	Mary Rogers	Staff:
	Roger Martinez	Catherine Hernandez, Planning Manager
	John Kuderer	Logan Sparrow, Senior Planner
	Henry Rodriguez	Shepard Beamon, Planner
	Maria Cruz	Paul Wendland, City Attorney
	Jeffrey Finlay	
	Christopher Garcia	
	George Britton	
	Frank Quijano	
	Jesse Zuniga	
	Gene Camargo	

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 from World Wide Translators was present.

Case Number: A-16-107

Applicant: Leybi Pon

Owner: Mario R. Pon

Council District: 9

Location: 12315 Walthampton Street

Legal Description: Lot 8, Block 3, NCB 1511

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

Case Manager: Shepard Beamon, Planner

Request

A request for a special exception, pursuant to Section 35-399.01 (i) of the Unified Development Code, to allow a one-operator beauty/barber shop in the home.

Shepard Beamon, Planner, presented background, and staff's recommends Approval of the variance. He indicated 33 notices were mailed, 3 returned in favor, and 1 returned in opposition. No neighborhood association.

Leybi Pon applicant: was present but Mike Pon spoke on her behalf and gave all the reasons for wanting the special exception.

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-16-107 closed.

MOTION

A motion was made by Mr. Rodriguez, “Regarding Appeal No. A-16-107, request for a special exception to allow a beauty/barber shop in a single-family home for a period of two (2) years for the initial approval with the proposed hours of operation, Monday – Friday from 8:00 a.m. – 5:00 p.m. and Saturday from 8:00 a.m. – 4:00 p.m., subject property description Lot 8, Block 3, NCB 1511, situated at 12315 Walthampton Street, applicant being Leybi Pon.

“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 purpose of the review is to ensure that the operation of one-operator beauty/barber shop does not negatively impact the character of the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. As such, staff finds that the special exception will be in harmony with the purpose of the chapter.**
2. “The public welfare and convenience will be substantially served” in that **the public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood.**
3. “The neighboring property will not be substantially injured by such proposed use” in that **the subject property will be primarily used as a single family residence. The beauty/barber shop will occupy only a small portion of the home, as required by the UDC. A neighboring property owner should not have any indication that a portion of the home is being used for this purpose.**
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 requested special exception is not likely to negatively impact adjacent property owners as the home is in character with those around it. During the field visit, staff noted nothing visible from the**

street that would indicate the presence of a beauty/barber shop. Also, staff noted a driveway capable of providing any necessary parking for the proposed use.

“The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district” in that: **the primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purposes of the residential zoning district.** The motion was seconded by **Mr. Garcia.**

Mr. Zuniga made an amendment, by appointment only and the hours of Monday - Friday from 8:00 a.m. - 5:00 p.m. and Saturday from 8:00 a.m. - 4:00 p.m.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Case Number: A-16-106

Applicant: Jose L. Garcia

Owner: Jose L. Garcia

Council District: 5

Location: 2316 South Laredo Street

Legal Description: Lot 17, Block 6, NCB 3163

Zoning: “I-2 AHOD” Heavy Industrial Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) the elimination of the required 30 foot front setback, as described in Table 35-310 to allow a covered patio to remain on the front property line and 2) a 21 foot variance from the Clear Vision requirement, as described in 35-514, to allow a 5 foot fence to remain in its current location.

Logan Sparrow, Senior Planner, presented the background information and staff’s recommendation of the variance. 25 Notices were mailed out, 0 in favor 0 in opposition and no response from the Collins Garden and Avenida Guadalupe Neighborhood Associations.

Jose L. Garcia: applicant utilized the interpreter services, Arianne Villanueva translated for Mr. Garcia, answering all questions and concerns.

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-16-106 closed.

MOTION

A **motion** was made by **Mr. Martinez**. Regarding Appeal No. A-16-106, 1) the elimination of the required 30 foot front setback to allow a covered patio to remain on the front property line, subject property description Lot 17, Block 6, NCB 3163, situated at 2316 South Laredo, applicant being Jose L. Garcia.

“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 setback to ensure uniform and safe development within the City of San Antonio. Allowing the subject property to block clear vision and eliminate the require setback is not contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the covered patio provides cliental with an area, out of the sun, to enjoy outdoor dining.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the requested variance will result in substantial justice because it will allow for development.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the **“I-2 AHOD” Heavy Industrial 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 covered patio provides an amenity for the business present at the subject property.**
- 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 unique circumstance present in this case is the fact the other properties in the community are set back varying distances from their front property lines.**” The motion was seconded by **Mr. Camargo**.

Mr. Martinez made a motion for the Patio cover only.

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

NAYS: None

THE VARIANCE IS GRANTED.

Mr. Kuderer made a motion for the clear vision requirement to remain in current location

Mr. Kuderer withdrew his motion, motion failed.

Case Number: A-16-104

Applicant: David Komet

Owner: 1921 Deco Building, LLC

Council District: 7

Location: 1921 Fredericksburg Road

Legal Description: Lot 2, Block 1, NCB 6692

Zoning: "C-2NA H AHOD" Commercial Non-Alcoholic Sales Monticello Park

Historic Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a 7 foot variance from the 10 foot buffer to allow a bufferyard to be 3 feet deep and 2) the elimination of the required 20 foot throat beyond the property line to allow a commercial development with no throat for parking lot entry.

Logan Sparrow, Senior Planner, presented background, and staff's recommends Approval of the variance. He indicated 21 notices were mailed, 1 returned in favor, and 0 returned in opposition. No response from the Monticello Park and Keystone Neighborhood Associations.

David Komet: Applicant was present and answered questions.

The following citizens appeared to speak:

Bianca Maldonado: President of the Monticello Neighborhood Association had concerns but was 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-16-104 closed.

A MOTION was made by Mr. Martinez. "Regarding Appeal No. A-16-104, for 1) a 7 foot variance from the 10 foot buffer to allow a bufferyard to be 3 feet deep and 2) the elimination of the required 20 foot throat beyond the property line to allow a commercial development with no throat for parking lot entry, subject property description Lot 2, Block 1, NCB 6692, situated at 1921 Fredericksburg Road, applicant being David Komet.

"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 bufferyards to separate incompatible uses and to contribute to vibrant streetscapes within or communities. Staff finds that this request is not contrary to the public interest in that commercial development on a site this small merits the relaxation of some development standards. The elimination of the 20 foot throat for parking lot entry is not contrary to the public interest because the entry front along Elmendorf Road, which carries significantly fewer trips than Fredericksburg Road. The proposed professional office building generates few trips and, as such, staff finds that the elimination of the driveway throat is not contrary to the public interest**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **special condition present is the size of the lot on which this development is proposed. Designing the site for a commercial use that meets all development standards is extremely difficult. In that the property has sat vacant for years, staff finds that a literal enforcement of the ordinance may result in an undevelopable property.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the requested variance will result in substantial justice because it will allow for development on a property that has long been vacant. Additionally, the variances will bring another development to the Fredericksburg Road corridor.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the “C-2NA H AHOD” Commercial Non-Alcoholic Sales Monticello Park Historic Airport Hazard Overlay District.
- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **any development in historic districts must gain final approval from the Historic Design Review Commission to ensure that its design will contribute to the district. This project has already gained approval from the HDRC and, therefore, staff finds that it will not detract from the essential character from the district ion which it 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, **the unique circumstance present in this case is the abnormally small lot size for a commercial development. This is not the fault of the owner of the property, not is this issue merely financial in nature.”** The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-105

Applicant: Matthew Ranjbar

Owner: Matthew Ranjbar and Narges Izad

Council District: 7

Location: 8627 Bandera Road

Legal Description: Lot 2, Block 5, NCB 17929

Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for the elimination of the Type B, 15 foot, bufferyard along the Bandera Road frontage, as described in Section 35-510, to allow for a commercial development with no bufferyard.

Logan Sparrow: Senior Planner, He indicated 36 notices were mailed, 0 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Mathhew Ranjbar: Applicant, presented information to the Board and requested approval of variance.

The following citizens appeared to speak:

Elizabeth Bercher: 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-16-105 closed.

Motion was made by **Mr. Kuderer**. Regarding Appeal No. A-16-105, for the elimination of the Type B, 5 foot, bufferyard along the Bandera Road frontage to allow for a commercial development with no bufferyard, subject property description Lot 2, Block 5, NCB 17929, situated at 8627 Bandera Road, applicant being Matthew Ranjbar.

"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 bufferyards to separate incompatible uses and to contribute to vibrant streetscapes within or communities. Allowing a car sales lot to eliminate the required bufferyard is not contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **requiring the subject property to adhere to bufferyard standards will block the view of the business from Bandera Road.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the requested variance will result in substantial justice because it will allow for development on a vacant property.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the “C-3 AHOD” General 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 **the bufferyard code is intended to separate incompatible uses however the buffer is along Bandera Road which is not incompatible with the use of a car sales lot.**
- 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 unique circumstance present in this case is the fact that fulfilling the bufferyard requirement will block the view of the business from Bandera Road.**” The motion was seconded by Mr. Garcia.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-109

Applicant: Armia Mazaheri

Owner: Donia Enterprises LLC

Council District: 1

Location: 1039 Basse Road

Legal Description: Lot 41, NCB 10115

Zoning: “I-1 AHOD” General Industrial Airport Hazard Overlay District

Case Manager: Shepard Beamon, Planner

Request

A request for 1) a twenty-five (25) foot variance from the thirty (30) foot side yard setback, as described in Section 35-310.01 (2), and 2) the elimination of the twenty-five (25) foot, Type D,

bufferyard, as described in Section 35-510, to allow a building to be constructed five (5) feet from the side property line with no bufferyard.

Shepard Beamon, Planner, presented background, and staff's recommends Approval of the special exceptions. He indicated 21 notices were mailed, 0 returned in favor, and 0 returned in opposition. No response from Shearhill/ Ridgeview Neighborhood Associations.

Armia Mazaheri, Applicant requested approval of variance

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-16-109 closed.

MOTION was made by **Mr. Quijano**. "Regarding Appeal No. A-16-109, for 1) a twenty-five (25) foot variance from the thirty (30) foot side yard setback and 2) the elimination of the twenty-five (25) foot, Type D, bufferyard to allow a building to be constructed five (5) feet from the side property line with no bufferyard, subject property description Lot 41, NCB 10115, situated at 1039 Basse Road, applicant being Armia Mazaheri.

"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 setback limitations to protect property owners and create a cohesive streetscape. The requested variance does not increase fire hazard, will not create water runoff on the adjacent property, and will not require trespass to maintain the building.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **if the adjacent property's zoning was consistent with the use, the 30 foot setback would not be required. The neighboring property has a Commercial/Industrial use which, if zoned correctly, would not require a setback. However, the applicant has proposed to provide a 5 foot setback.**
- 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 of providing a substantial setback between Industrial and Residential zoning. In this case, the use of the adjacent property is not consistent with the residential zoning.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"I-1 AHOD" General Industrial 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 adjacent property’s use does not conform to its current zoning designation. The variance will not alter the character of the surrounding 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, **the unique circumstance present in this case is the fact the subject property is located adjacent to a property designated “R-4” which triggers a 30 foot setback and buffer. The adjacent property does not have residential uses and limits the space needed for the subject property to expand.**” The motion was seconded by **Ms. Cruz.**

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

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 15 minute break at 2:55pm

The Board of Adjustment Reconvened at 3:10pm

Case Number: A-16-098

Applicant: Bert J. Brown

Owner: Burt J. and Jerri L. Brown

Council District: 10

Location: 14319 Ridge Falls Drive

Legal Description: Lot 7, Block 7, NCB 17807

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

Case Manager: Shepard Beamon, Planner

Request

A request for thirteen (13) foot variance from the twenty-five (25) foot platted front setback, as described in Section 35-516 (O), to allow a carport to be twelve (12) feet from the front property line.

Shepard Beamon, Planner, presented the background information, and staff's recommendation of the variance request. He indicated 31 notices were mailed, 1 returned in opposition and 3 in favor and no neighborhood association.

Bert J Brown, Applicant requested approval of variance.

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-16-098 closed.

MOTION

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-098, for thirteen (13) foot variance from the twenty-five (25) foot platted front setback to allow a carport to be twelve (12) feet from the front property line, subject property description Lot 7, Block 7, NCB 17807, situated at 14319 Ridge Falls Drive, applicant being Bert J. Brown.

"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 setback limitations to protect property owners and create a cohesive streetscape. The proposed twelve (12) feet in the front of the property provides this streetscape protection in other areas. Since the carport meets the side setback a modified 13 foot variance would not be contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 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 requested variance for a twelve (12) foot front setback meets the zoning requirement established in most residential districts.**

- 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 will be an attractive addition to the home when it is completed. A thirteen (13) foot variance from the twenty-five (25) foot platted setback will not cause harm to adjacent properties. Additionally, the property will not increase fire hazard, will not create water runoff on the adjacent property, and will allow room for maintenance without trespass.**
- 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 twenty-five (25) foot platted front setback poses an additional barrier to property development and does not provide this property owner equal rights for development. 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. Rodriguez.**

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-099

Applicant: Jose Vasquez

Owner: Jose Vasquez

Council District: 4

Location: 1326 Bay Horse Drive

Legal Description: Lot 24, Block 6, NCB 15859

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

Case Manager: Shepard Beamon, Planner

Request

A request for a twelve (12) foot variance from the twenty (20) foot platted front setback, as described in Section 35-516 (O), to allow a carport to be eight (8) feet from the front property line.

Shepard Beamon, Planner, presented background, and staff’s recommendation of the request. He indicated 30 notices were mailed, 3 returned in favor, 0 returned in opposition, and no response from the Heritage Neighborhood Association.

Jose Vasquez, Applicant requested approval of the variance.

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-16-099 closed.

MOTION A motion was made by **Mr. Garcia**. “Regarding Appeal No. A-16-099, for a twelve (12) foot variance from the twenty (20) foot platted front setback to allow a carport to be eight (8) feet from the front property line, subject property description Lot 24, Block 6, NCB 15859, situated at 1326 Bay Horse Drive, applicant being Jose 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 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 proposed eight (8) feet in the front of the property 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.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 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 8 feet front setback and represents the ordinance and the proposed carport meets this spirit.**
- 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 will be an attractive addition to the home when it is completed. A twelve (12) foot variance from the twenty (20) foot platted setback will not cause harm to adjacent properties. Additionally, the property will still have room for maintenance without trespass.**
- 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 twenty (20) foot platted front setback**

poses an additional barrier to property development and does not provide this property owner equal rights for development.” The Motion was seconded by Mr. Camargo.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-103

Applicant: Robert Moreno

Owner: Robert Moreno

Council District: 2

Location: 4327 Bikini Drive

Legal Description: Lot 19, Block 14, NCB 12384

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

District

Case Manager: Shepard Beamon, Planner

Request

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

Shepard Beamon: Planner, presented background for the requested variance. He indicated 27 notices were mailed, 4 returned in favor, 0 returned in opposition, and no response from the Terrell Hills Neighborhood Association.

Robert Moreno Applicant, requested approval of the variance and reasons for request.

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-16-103 closed.

MOTION A motion was made by **Mr. Rodriguez** “Regarding Appeal No. A-16-103, for twenty (20) foot variance from the thirty (30) foot platted front setback to allow a carport to be ten (10) feet from the front property line, subject property description Lot 19, Block 14, NCB 12384, situated at 4327 Bikini Drive, applicant being Robert Moreno.

“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 setback limitations to protect property owners and create a cohesive streetscape. The proposed ten (10) feet in the front of the property 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.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 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 requested variance for a ten (10) foot front setback meets the zoning requirement established in most residential districts.**
- 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 will be an attractive addition to the home when it is completed. A twenty (20) foot variance from the thirty (30) foot platted setback will not cause harm to adjacent properties. Additionally, the property will not increase fire hazard, will not create water runoff on the adjacent property, and will allow room for maintenance without trespass.**
- 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 thirty (30) foot platted front setback poses an additional barrier to property development and does not provide this property owner equal rights for development. 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.**” Mr. Kuderer seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.



Case Number: A-16-100

Applicant: Jim Poteet, Poteet Architects

Owner: Your Loved Home Solutions Inc.

Council District: 1

Location: 419 Cedar Street

Legal Description: Lot 5, Block 3, NCB 2968

Zoning: "RM-4 H HS AHOD" Residential-Mixed King William Historic

Significant Airport Hazard Overlay District

Case Manager: Shepard Beamon, Planner

Request

A request for a two (2) foot variance from the minimum five (5) foot side setback, as described in Section 35-310, to allow an addition to the primary dwelling to be built three (3) feet from the side property line.

Shepard Beamon: Planner, presented background for the requested variance. He indicated 28 notices were mailed, 2 returned in favor, 1 returned in opposition, and no response from the King William Neighborhood Association.

Jim Poteet: Applicant was not present.

Isidora Centez: Representative, spoke on behalf of Mr. Poteet requested approval of the variance.

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-16-100 closed.

MOTION A motion was made by **Mr. Finlay**. "Regarding Appeal No. A-16-100, for a two (2) foot variance from the minimum five (5) foot side setback to allow an addition to the primary dwelling to be built three (3) feet from the side property line, subject property description Lot 5, Block 3, NCB 2968, situated at 419 Cedar Street, applicant being Jim Poteet, Poteet Architects.

"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 side setbacks to protect property owners and to contribute to a sense of community. The proposed addition will not disrupt the character of the**

existing neighborhood. Also, the variance request will allow for building maintenance without trespass, no water runoff will occur on the adjacent property, and will not increase fire risk.

- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the special condition presented in this case is the original location of the existing home. The existing home is less than two feet from the side property line. If the home were three feet from the side property line, then the proposed addition would be permitted by right per section 35-516 (b).**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the ordinance is defined as the intent of the code rather than the letter of the law. Side setbacks were created to provide some separation between homes to prevent the spread of fire. If approved the applicant will have to ensure the structure meets fire standards. Granting the requested variance 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 H AHOD” Residential Single-Family King William Historic Airport Hazard Overlay District.**
- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **the addition will not detract from the overall character of the King William community. The requested three foot separation will provide the needed space for maintenance without trespass and is not likely to cause water runoff on neighboring properties. In addition, the plans have been approved by HDRC, which ensures new construction and renovations are in keeping with the historic nature of the neighborhood.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **per the Unified Development Code, an addition can be built in line to the existing home if no part of the structure is less than 3 feet from the side property line. In this case, the existing home is less than two feet from the side property line. The addition would fulfill the Code requirements if the current existing structure were built three feet from the property line, which is permitted by right.**” Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 5 minute break at 4:15pm

The Board of Adjustment Reconvened at 4:20pm

Item #10, Case #A-16-102 was moved down to allow staff time to find an interpreter for Mr. Raul Nolasco who arrived late to the meeting and did not sign up for the interpreter services.

Case Number: A-16-108

Applicant: Benjamin Winslow

Owner: Benjamin Winslow

Council District: 6

Location: 8731 Yormis Nest

Legal Description: Lot 15, Block 62, NCB 18288

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

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 5.25 foot variance from the 20 foot rear setback, as described in Table 35-310, to allow a covered patio addition to remain 14.75 feet from the rear property line.

Logan Sparrow: Senior Planner, presented background for the requested variance. He indicated 39 notices were mailed, 1 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Benjamin Winslow: Applicant requested approval of variance and stated his contractor Quality Custom Decks did not pull permits correctly.

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-16-108 closed.

MOTION A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-108, a request for a 5.25 foot variance from the 20 foot rear setback to allow a covered patio addition to remain 14.75 feet from the rear property line, subject property description Lot 15, Block 62, NCB 18288, situated at 8731 Yormis Nest, applicant being Benjamin Winslow.

"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, these criteria are represented by minimum setback requirements to ensure equal access to air and light and to prevent the spread of fire. The applicant is seeking only a 5.25 foot deviation from the requirement established by the Unified Development Code. Staff finds that the requested variance is not contrary to the public interest in that the addition will still be 14.75 feet from the rear property line and is not visible from the public right of way.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **a literal enforcement if the setback is likely to result in unnecessary hardship in that the structure will have to be removed.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **granting the requested variance will result in substantial justice. Considering the requested variance seeks only a 5.25 foot deviation from the requirement, a distance that is unlikely to be noticed, staff finds that the spirit of the ordinance will be observed.**
- 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 **it is unlikely that granting the requested variance will harm adjacent properties as the request seeks to reduce only a small portion of the rear setback. Adjacent property owners will still be protected as the structure meets the side setbacks.**
- 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 unique circumstance present in this case is the fact the applicant was unaware that a permit was not acquired and is moving through the appropriate channels to address the setback violation.**” The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCE IS GRANTED.



Case Number: A-16-102

Applicant: Raul Nolasco
Owner: Raul and Leonor Nolasco
Council District: 3
Location: 190 Beethoven Street
Legal Description: Lot 22, Block 5, NCB 7526
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay
District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 361.80 square foot variance from the maximum 619.20 square foot maximum accessory dwelling unit size, as described in Section 35-371(b), to allow an accessory dwelling unit to be 981 square feet in size.

Logan Sparrow, Senior Planner, presented background for the requested variance. He indicated 26 notices were mailed, 2 returned in favor, 0 returned in opposition and no Neighborhood Association.

Raul Nolasco, Applicant spoke with translation help from Oscar Aguilar requesting approval of his variance.

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-16-102 closed.

MOTION A motion was made by **Mr. Martinez for a continuance to July 11, 2016**
Mr. Cruz seconded the motion.

AYES: Martinez, Cruz, Rodriguez, Camargo, Garcia, Neff, Quijano, Kuderer, Rogers
NAYS: None

THE CONTINUANCE IS GRANTED.

Case Number: A-16-110

Applicant: Curtis Cooper
Owner: Curtis Cooper
Council District: 8
Location: 13258 Hunters Breeze

Legal Description: Lot 15, Block 27, N.CB 17162
Zoning: "R-6 MLOD AHOD" Residential Single-Family Military Lighting
Overlay Airport Hazard Overlay District
Case Manager: Shepard Beamon, Planner

Request

A request for a one and a half (1.5) foot variance from the required three (3) foot side setback as described in Section 35-370 (b) 1, to allow an accessory structure to be located one and a half (1.5) feet from the side property line.

Shepard Beamon, Planner, presented background for the requested variance. He indicated 21 notices were mailed, 2 returned in favor, 1 returned in opposition. No response from the Hunters Creek Neighborhood Association.

Curtis Cooper: Applicant, requested approval of the variance.

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-16-110 closed.

MOTION A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-110, for a one and a half (1.5) foot variance from the required three (3) foot side setback to allow an accessory structure to be located one and a half (1.5) feet from the side property line, subject property description Lot 15, Block 27, N.CB 17162, situated at 13258 Hunters Breeze, applicant being Paul Cooper.

"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 setback limitations to protect property owners and create a cohesive streetscape. The structure in its current location will not disrupt the character of the surrounding neighborhood.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant is requesting the variance to replace an existing an older shed that has been in the same location for over 10 years**
- 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 18 inches is a sufficient buffer to meet the spirit of the code.**

- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the **“R-6 MLOD AHOD” Residential Single-Family 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 **18 inch setback will ensure that the structure will not produce any water runoff on the adjacent property. It will also ensure that maintenance will require no trespass.**
- 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 unique circumstance present in this case is the fact the accessory structure is replacing an older shed that has been in the same location for 10 years. The applicant has removed the eave to achieve the 18 inch clearance from the side property line. There is an existing tree within close proximity to the structure which prohibits relocation of the shed.**” Mr. Rodriguez seconded the motion.

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

NAYS:

THE VARIANCE IS GRANTED.

Ms. Rogers made a motion to approve the June 6, 2016 minutes with all members voting in the affirmative.

Directors Report: None

There being no further discussion, meeting adjourned at 5:10 pm.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary