

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES**

DRAFT

July 11, 2016

Members Present:	Mary Rogers	Staff:
	Roger Martinez	Catherine Hernandez, Planning Manager
	John Kuderer	Logan Sparrow, Senior Planner
	Paul Klein	Shepard Beamon, Planner
	Alan Neff	Paul Wendland, City Attorney
	Jeffrey Finlay	
	Christopher Garcia	
	George Britton	
	Frank Quijano	
	Jesse Zuniga	

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.

Commissioner Rogers asked for a motion to move to the top of the agenda case # A-16-112. Commissioner Kuderer made a motion. The motion was seconded by Garcia and the item was unanimously approved.

Commissioner Rogers called for a motion to move up case # A-16-089 and case # A-16-102 for Spanish Translation Services. Commissioner Kuderer made a motion. The motion was seconded by Garcia and the item was unanimously approved.

Commissioner Martinez entered the meeting at 1:10 p.m.

Commissioner Teel sat in on the meeting for Commissioner Klein who recused from voting on this item.

Case Number: A-16-112

Applicant: Stanley Studer

Owner: Stanley Studer and Jan Studer

Council District: 10

Location: 212 Rockhill Drive

Legal Description: Lot 2, Block 4, NCB 11863

Zoning: "NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a special exception to allow an eight (8) foot tall fence in a portion of the rear yard of the property.

Logan Sparrow, Planner, presented background, and staff's recommends Approval of the variance. He indicated 25 notices were mailed, 3 returned in favor, and 0 returned in opposition. No response from the Oak Park and Northwood Neighborhood Association.

Jane Studer: Applicant, stated the two extra feet on her fence will give her family added privacy.

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-16-112 closed.

MOTION

A motion was made by **Mr. Quijano**, "Regarding Appeal No. A-16-112, request for a special exception to allow an eight (8) foot tall fence in a portion of the rear yard of the property, subject property description Lot 2, Block 4, NCB 11863, situated at 212 Rockhill Drive, applicant being Stanley Studer.

"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 proposed fence is meant to provide for more privacy of the property. Because the fence cannot be seen from any street right-of-way, the request is in harmony with 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 for more privacy for the residents without harming the public.**
- 3) “The neighboring property will not be substantially injured by such proposed use” in that **the fence does not detract from the character of the community or adjacent properties.**
- 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” **because the fence cannot be seen from any street right-of-way. As such, it is unlikely that the proposed fencing will alter the essential 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 fencing chapter means to allow property owners to protect their property and to establish privacy. The requested fencing cannot be seen and, therefore, will not harm the public.”** The motion was seconded by **Mr. Zuniga.**

AYES: Quijano, Zuniga, Garcia, Teel, Britton, Finlay, Ojeda, Neff, Martinez, Kuderer, Rogers.

NAYS: None

ABSTAIN: Klein

THE VARIANCE IS GRANTED.

Commissioner Klein entered the meeting at 1:22 p.m. and replaced Commissioner Teel.

Case Number: A-16-089

Applicant: Bernabe Mata

Owner: Bernabe Mata

Council District: 4

Location: 3126 Owasso Street

Legal Description: Lot 37, Block 15, NCB 12668

Zoning: “RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District

Case Manager: Shepard Beamon, Planner

Request

A request for a 4 foot variance from the required 5 foot side yard setback, as described in Section 35-310.01, to allow a primary dwelling unit to be one foot from the side property line.

Shepard Beamon, Planner, presented the background information and staff's recommendation. 37 Notices were mailed out, 1 in favor 0 in opposition and no neighborhood associations.

Benabe Mata: Applicant, **requested translation services (Arrienne Villanueva)**. Mr. Bernabe asked for approval of his request for security reasons and to have extra rooms for his children.

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-16-089 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-089, variance application for a 4 foot variance from the required 5 foot side yard setback to allow a primary dwelling unit to be one foot from the side property line, subject property description Lot 37, Block 15, NCB 12668, situated at 3126 Owasso Street, applicant being Bernabe Mata.

"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) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **meeting the side setback 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 home addition 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 **"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 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 home addition, 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. Quijano**.

AYES: Garcia, Finlay, Ojeda, Neff, Klein, Kuderer

NAYS: Martinez, Quijano, Zuniga, Rogers, Britton

THE VARIANCE FAILED

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, and staff’s recommends Approval of the variance. He indicated 26 notices were mailed, 2 returned in favor, and 0 returned in opposition. No neighborhood association.

Raul Nolasco: Applicant, requested translation services (Arrianne Villanueva). Mr. Nolasco requested the variance so he can live upstairs so his mother can live in his one story house.

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.

A MOTION was made by Mr. Neff. “Regarding Appeal No. A-16-102, request for a 361.80 square foot variance from the maximum 619.20 square foot maximum accessory dwelling unit size to allow an accessory dwelling unit to be 981 square feet in size, subject property description Lot 22, Block 5, NCB 7526, situated at 190 Beethoven Street, applicant being Raul Nolasco.

“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 **public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by size limitations on accessory dwelling units. The Unified Development Code permits ADU’s as a means to secure rental income and to provide for affordable housing choices for the elderly, students, and needy populations. Allowing an accessory dwelling unit larger than permitted by code is not contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the subject property can accommodate an accessory dwelling unit of the proposed size and a literal enforcement 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 requested variance meets 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 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 proposed accessory dwelling unit will not harm 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 that the proposed accessory dwelling unit is being built within the footprint of an existing garage.**” The motion was seconded by Mr. Martinez.

AYES: Neff, Martinez, Klein, Quijano, Britton, Finlay, Ojeda, Zuniga, Garcia, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

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: Shepard Beamon, 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.

Shepard Beamon: Planner, staff indicated 29 notices were mailed, 0 returned in favor, 0 returned in opposition, and Beacon Hill Neighborhood Association is opposed.

Sergio Medina: Applicant brought a translator Mr. Jorge Gonzalez who stated that he was willing to work with the neighbors and Board to get his variance approved. He also brought a letter from his neighbor stating she is in favor.

The following citizens appeared to speak:

Mary Ann Van Ness: Beacon Hill Neighborhood Association is in opposition.

Everett Ives: 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-16-083 closed.

Motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-083, for 1) a three foot variance from the required five foot side yard setback to modify an attached carport, subject property description Lots 30 and 31, Block 3, NCB 3104, situated at 1114 W Lynwood Avenue, applicant being Sergio Medina.

"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-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District.**
- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **the development standards will ensure safe and appropriate construction for the proposed carport.**
- 1) “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. Martinez.**

AYES: Neff, Martinez, Kuderer, Klein, Garcia, Quijano, Britton, Finlay, Ojeda, Zuniga, Rogers,

NAYS: None

THE VARIANCE IS GRANTED AS AMENDED.

The Board of Adjustment recessed for a 10 minute break at 3:00 p.m.

The Board of Adjustment reconvened at 3:10 p.m.

Case Number: A-16-093

Applicant: Marivel Martinez

Owner: Marivel Martinez

Council District: 3

Location: 210 Barrett Avenue

Legal Description: Lot 12, Block 11, NCB 7693

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

Case Manager: Shepard Beamon, Planner

Request

A request for an elimination of the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be located on the side property line.

Shepard Beamon, Planner, presented background, and staff's recommends Denial of the special exceptions. He indicated 27 notices were mailed, 2 returned in favor, and 0 returned in opposition. No response from Mission San Jose Neighborhood Association.

Marivel Martinez: applicant stated they need the extra room for their large vehicles, and protection from the heat and weather.

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-16-093 closed.

MOTION was made by **Mr. Finlay**. "Regarding appeal No. A-16-093, variance application for an elimination of the 5 foot side setback to allow a carport to be located on the side property line, subject property description Lot 12, Block 11, NCB 7693, situated at 210 Barrett Avenue, applicant being Marivel Martinez.

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

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the 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-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 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 **Ms. Garcia.**

AYES: Finlay, Garcia, Ojeda, Neff, Kuderer, Britton, Rogers

NAYS: Martinez, Quijano, Zuniga, Klein

THE VARIANCE FAILED.

Case Number: A-16-090

Applicant: Irma Talamantez

Owner: Irma and Robert Talamantez

Council District: 3

Location: 3331 Scarlet O’Hara

Legal Description: Lot 18, Block 1, NCB 14954

Zoning: “RM-5 MC-2 AHOD” Residential-Mixed South Presa Metropolitan

Corridor Overlay Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a 21.5 foot variance from the 30 foot platted rear setback, as described in Section 35-516(O), to allow a home addition to remain 8.5 feet from the rear property line and 2) the elimination of the side and rear setbacks, as described in Section 35-370(b)(1), to allow an accessory structure to be located on the side and rear property line and 3) a 1.5 foot variance from the 10 ft rear zoning setback, as described in Section 35-310.01, to allow a home addition to be 8.5 feet from the rear property line.

Logan Sparrow, Senior Planner, presented the background information, and staff's recommendation of the variance request. He indicated 25 notices were mailed, 1 returned in opposition and 8 in favor and no neighborhood association.

Robert and Irma Talamantez: Applicants requested approval of variance. They also stated that after they paid their fines they believed it was ok to continue building and that construction began in 2008 and electrical permits were pulled in 2014.

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-16-090 closed.

MOTION

A motion was made by **Mr. Klein**. "Regarding Appeal No. A-16-090, variance application for 1) a 21.5 foot variance from the 30 foot platted rear setback to allow a home addition to remain 8.5 feet from the rear property line and 2) the elimination of the side and rear setbacks to allow an accessory structure to be located on the side and rear property line and 3) a 1.5 foot variance from the 10 ft rear zoning setback to allow a home addition to be 8.5 feet from the rear property line, subject property description Lot 18, Block 1, NCB 14954, situated at 3331 Scarlet O'Hara, applicant being Irma Talamantez.

"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 and the applicant has provided enough of a setback to ensure that the structures are safe.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement would result in the property owner having to remove the structure.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance requires setbacks to ensure safety. The structures are meet the side setbacks and are safe.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"RM-5 MC-2 AHOD" Residential-Mixed South Presa Metropolitan Corridor Overlay Airport Hazard Overlay District.**

- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **the development standards will ensure safe and appropriate construction for the addition.**
- 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 that the family needs extra room for their family.**” The motion was seconded by **Mr. Kuderer.**

Motion was for Part 2 of the motion only and failed unanimously.

AYES: None

NAYS: Klein, Kuderer, Neff, Ojeda, Quijano, Finlay, Britton, Garcia, Martinez, Zuniga, Rogers

Motion was made by Commissioner Neff for part 1 and 3 of the motion only and was seconded by Klein.

AYES: Neff, Klein, Finlay, Garcia, Zuniga, Britton, Kuderer, Rogers

NAYS: Ojeda, Quijano, Martinez,

Motion for Part 1 and 3 Failed.

Motion was made by Commissioner Martinez to reconsider and amend part 1, seconded by Neff.

Commissioner Martinez amended motion, Regarding Appeal No. A-16-090, variance application for a **13.5 foot variance from the 30 foot platted rear setback to allow a home addition to remain 16.5 feet** from the rear property line subject property description Lot 18, Block 1, NCB 14954, situated at 3331 Scarlet O’Hara, applicant being Irma Talamantez.

AYES: Martinez, Neff, Klein, Finlay, Garcia, Zuniga, Britton, Kuderer, Rogers

NAYS: Ojeda, Quijano,

Motion passes as amended.

Case Number: A-16-097

Applicant: Albert Litterio

Owner: Albert Litterio

Council District: 5

Location: 2315 Delgado Street

Legal Description: Lot 18, Block 14, NCB 8894

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

Case Manager: Shepard Beamon, Planner

Request

A request for an elimination of the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be located on the side property line.

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

Albert Litterio: Applicant stated his contractor Danny Aguilar Construction did not pull permits for the carport but stated to the applicant he did.

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-16-097 closed.

MOTION A motion was made by **Mr. Garcia**. "Regarding appeal No. A-16-097, variance application for an elimination of the 5 foot side setback to allow a carport to be located on the side property line, subject property description Lot 18, Block 14, NCB 8894, situated at 2315 Delgado Street, applicant being Albert Litterio.

"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 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-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 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.**
- 7) ” **The Motion was seconded by Mr. Zuniga.**

AYES: Garcia, Zuniga, Neff, Ojeda, Quijano, Klein, Finlay, Britton, Martinez, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 10 minute break at 4:43 p.m.

The Board of Adjustment reconvened at 4:53 p.m.

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: Logan Sparrow, Senior Planner

Request

A request for a 25 foot variance from the 25 foot platted front setback to allow a carport to be built along the front property line.

Logan Sparrow: Senior Planner, presented background for the requested variance. He indicated 31 notices were mailed, 2 returned in favor, 0 returned in opposition, and no neighborhood association.

Bert J Brown: Applicant was available for questions and was thankful to City Staff.

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. Kuderer**. “Regarding appeal No. A-16-098, for a 25 foot variance from the 25 foot platted front setback to allow a carport to be on 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. Since the carport meets the side setback the carport 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 **it will allow the property owner to protect their vehicles.**
- 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. 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.**” Mr. Garcia seconded the motion.

AYES: Kuderer, Garcia, Neff, Ojeda, Quijano, Finlay, Britton, Martinez, Zuniga, Rogers

NAYS: Klein

THE VARIANCE IS GRANTED.

Case Number: A-16-111

Applicant: Cheryl Carter

Owner: Cheryl Carter and Irene Ruiz

Council District: 10

Location: 11526 Casa Alto Street

Legal Description: Lot 27, Block 14, NCB 14421

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

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 23 foot variance from the 30 foot platted front setback to allow a carport to be seven (7) feet from the front property line and 2) a four (4) foot variance from the required five (5) foot side yard setback to allow the carport to be one (1) foot from the side property line.

Logan Sparrow: Planner, presented background for the requested variance. He indicated 21 notices were mailed, 8 returned in favor, 0 returned in opposition, and no response from the Citizens on Alert Neighborhood Association.

Cheryl Carter: Applicant was available to answer question

Christopher Rodriguez spoke on behalf of Ms. Carter gave background information and provided letters of support from the neighbors.

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-16-111 closed.

MOTION A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-111, request for a 23 foot variance from the 30 foot platted front setback to allow a carport to be 7 feet from the front property line and 2) a 4 foot variance from the required 5 foot side yard setback to allow the carport to be 1 foot from the side property line, subject property description Lot 27, Block 14, NCB 14421, situated at 11526 Casa Alto Street, applicant being Cheryl Carter.

"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 **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 protect adjacent property owners. The carport is designed to drain water to the street and is made of metal. As such, it is unlikely that the carport will cause harm to the adjacent property owner.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the subject property is platted with a 30 foot setback. A literal enforcement would leave no room for a carport.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **approving the request would allow the property owner to protect their vehicles.**
- 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 **carport is unlikely to harm their neighbors because it is made of metal and does not drain onto other 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 that the platted setback leaves no room for any carport addition.”** Mr. Neff seconded the motion.

AYES: Martinez, Neff, Finlay, Ojeda, Kuderer, Klein, Garcia, Quijano, Britton, Zuniga, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-114

Applicant: Lorena Roriguez

Owner: Lorena Roriguez

Council District: 3

Location: 3323 Stephen Foster Drive

Legal Description: Lot 25, Block 3, NCB 14956

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

Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 26 foot variance from the 30 foot platted front setback to allow a carport to be four (4) feet from the front property line.

Logan Sparrow: Senior Planner, presented background for the requested variance. He indicated 38 notices were mailed, 1 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Lorena Rodriguez: Applicant requested approval of the variance and thanked staff for all their help.

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-16-114 closed.

MOTION A motion was made by **Mr. Quijano** “Regarding Appeal No. A-16-114, request for a 26 foot variance from the 30 foot platted front setback to allow a carport to be 4 feet from the front property line, subject property description Lot 25, Block 3, NCB 14956, situated at 3323 Stephen Foster Drive, applicant being Lorena Rodriguez.

“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 property is located on a street with ten other carports of a similar design. Because front yard carports are so common in this neighborhood, it is unlikely that this carport will compromise 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.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **granting the variance would allow the applicant to protect their vehicles similarly to others on the block.**
- 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 **carports are a common feature within this 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, **the thirty (30) foot platted front setback makes the construction of any carport impossible. The applicant’s request would allow for a design that is consistent within the community.**” The motion was seconded by Mr. Martinez.

AYES: Quijano, Martinez, Finlay, Klein, Ojeda, Kuderer, Garcia, Neff, Britton, Zuniga, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Ms. Rogers made a motion to approve the July 11, 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